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Writ Petition No.14315 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.14315 of 2023

and

W.M.P.Nos.13822 of 2023 & 28903 of 2024

M.Gnanaprakasam
S/o.Mayavan

... Petitioner

Vs.

1.The Deputy Registrar of Cooperative Societies,
Ariyalur Circle, Ariyalur,
Ariyalur District.

2.The Cooperative Sub-Registrar/Administrator,
TYSPI.79, Sendurai Primary Agricultural
Cooperative Credit Society,
Sendurai Post - 621 714.
Sendurai Taluk, Ariyalur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the entire records relating to the impugned order passed by second respondent in his proceedings No.Nil, dated 29.04.2023 and quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondents : Mr.S.Ravikumar
Special Government Pleader

ORDER



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This writ petition has been filed challenging the proceedings of the second respondent dated 29.04.2023 wherein the petitioner has been demoted from the post of Accountant to the post of Clerk.

2. The case of the petitioner is that he was appointed as a Clerk in the Agricultural Cooperative Credit Society in the year 1991. After 20 long years, the petitioner was promoted to the post of Accountant. The petitioner was holding this post for quite some time. The second respondent, through impugned proceedings dated 29.04.2023, demoted the petitioner to the post of Clerk on the ground that the promotion given to the petitioner is illegal and against the by-laws of the society. Aggrieved by the same, the present writ petition has been filed before this Court.

3. The first respondent has filed a counter affidavit. The first respondent has taken a stand that a complaint was received on the ground that irregular promotion has been given to the employees belonging to the second respondent society. In view of the same, an enquiry was conducted under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983. The enquiry officer submitted a report dated 12.08.2022. It



came to light that the petitioner, who was working as Clerk was given irregular promotion. This is in view of the fact that the petitioner was facing a punishment when he was holding the post of Clerk and during the currency of the punishment, the promotion was given to him. In view of the same, the first respondent has justified the impugned order, which resulted in the demotion of the petitioner from the post of Accountant to the post of Clerk.

4. Heard Ms.R.Hemalatha, learned counsel for petitioner and Mr.S.Ravikumar, learned Special Government Pleader appearing for respondents.

5. The short question that arises for consideration is as to whether the impugned proceedings of the second respondent dated 29.04.2023 is liable to be interfered with by this Court.

6. The petitioner has questioned the impugned order passed by the second respondent on the ground that it is violative of principles of natural justice and that the second respondent did not have the jurisdiction to pass such an order since such power is vested only with the



Joint Registrar.

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7. Learned Special Government Pleader appearing on behalf of respondents submitted that the very promotion given to the petitioner is illegal since such promotion was given during the currency of punishment. Learned Special Government Pleader placed reliance upon the by-laws of the society in this regard. Learned Special Government Pleader further submitted that the petitioner was not demoted unilaterally and that a detailed enquiry was conducted under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 and only based on the enquiry report submitted by the enquiry officer, the decision was taken. Learned counsel, therefore, submitted that there is absolutely no justification to interfere with the impugned order passed by the second respondent.

8. In the considered view of this Court, the impugned order passed by the second respondent results in civil consequences. The petitioner, who was holding the post of Accountant has been demoted to the post of Clerk. In view of the same, the minimum that is required is to issue a notice to the petitioner by informing the petitioner the grounds on which the petitioner is sought to be demoted to the post of Clerk. If the



second respondent is relying upon any report for this purpose, a copy of that report must also be given to the petitioner. On receipt of the same, the petitioner could have given his reply/explanation and considering the same, an order could have been passed by the second respondent. Even this minimum procedure was not followed and straight away the impugned order has been passed by the second respondent. In view of the same, the impugned order passed by the second respondent is violative of principles of natural justice.

9. This Court is not inclined to go into the merits of the case that was canvassed on the side of respondents. The respondents may have all the justification to pass an order demoting the petitioner. However, what is important is to see if a proper procedure has been followed by putting the petitioner on notice. If that has not been done in spite of valid grounds available to the respondents, the order will have to be interfered since it results in civil consequences and the order has been passed without affording opportunity to the petitioner.

10. In the light of the above discussion, the impugned



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proceedings of the second respondent dated 29.04.2023 is hereby quashed. There shall be a direction to the second respondent to issue proper notice to the petitioner regarding the proposed demotion of the petitioner from the post of Accountant to the post of Clerk. A copy of the report submitted under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, shall also be furnished to the petitioner. The petitioner shall give his reply/explanation and based on the same, the second respondent can pass orders on its own merits and in accordance with law. If at all, the second respondent is inclined to take any such action, it shall be completed within a period of three (3) months from the date of receipt of a copy of this order.

In the result, this writ petition is allowed with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

26.09.2024

Neutral Citation: Yes/No
Index: yes/no
Speaking Order/Non-Speaking Order
gm



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N.ANAND VENKATESH, J

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