



W.A.No.2649 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.09.2024

CORAM :

THE HON'BLE MR.D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

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The Joint Registrar of Co-operative Societies,
Krishnagiri Region, Krishnagiri,
Krishnagiri District.

.. Appellant

Vs

1.B.S.Venkatesan

2.The President,
D.K.80, Berigai Primary Agricultural
Cooperative Credit Society,
Sulagiri Road, Berigai-635 105,
Sulagiri Taluk,
Krishnagiri District.

.. Respondents

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 9.10.2023 passed by the learned Single Judge in W.P.No.8801 of 2021.

For the Appellant : Mr.S.Yashwanth
Addl. Government Pleader

For the Respondents : Mrs.Hemalatha
for respondent No.1



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JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

Questioning the legality of the order dated 9.10.2023 passed by the learned Single Judge in W.P.No.8801 of 2021, directing the appellant and the second respondent herein to pay subsistence allowance to the first respondent herein [original writ petitioner], the present writ appeal is filed.

2. Learned Additional Government Pleader appearing on behalf of the appellant submits that, as per Proviso to Rule 30(4)(i) of the Tamil Nadu Primary Agricultural Co-operative Credit Societies Common Cadre Service Rules, 2019, a common cadre employee under suspension shall not be entitled to subsistence allowance unless such employee furnishes a certificate to the effect that he/she is not engaged in any other employment, business, profession or vocation or employment and had not earned remuneration therefor during the period of suspension. The first respondent is growing flowers and selling them in various cities and



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thus generating income from horticulture even as per his affidavit filed in W.P.No.10313 of 2020, but the said fact was not considered by the learned Single Judge while passing the impugned order.

3. Mrs.Hemalatha, learned counsel appearing on behalf of the first respondent, submitted that alleging non-compliance of the order passed by the learned Single Judge, the first respondent filed Contempt Petition No.318 of 2024 before the learned Single Judge and, in the said proceedings, the second respondent herein appeared in person before the learned Single Judge and undertook to transfer a sum of Rs.10 lakh on or before 12.6.2024 and pay the balance amount within a period of three weeks thereafter. When such an undertaking is given by the second respondent to comply with the direction issued by the learned Single Judge, the present writ appeal against the said order is liable to be dismissed outright.

4. We have heard learned counsel on either side and perused the documents filed, including the order dated 10.6.2024 passed in Contempt Petition No.318 of 2024.



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5. Before advertng to the merits of the contentions canvassed on either side, it is seemly to refer to the order dated 10.6.2024 passed in Contempt Petition No.318 of 2024, which reads thus:

*"Cheque dated 03.06.2024 issued by the second respondent is returned by the banker without permitting the petitioner to encash the same. **The second respondent, who is physically present before this Court undertakes to transfer the amount of Rs.10,00,000/- covered by the cheque within a couple of days i.e., on or before 12.06.2024 and also further undertakes to pay the balance amount of subsistence allowance due and payable to the petitioner within a further period of three weeks.***

2. In view of the undertaking given by the second respondent, who is physically present before this Court, the appearance of the second respondent is dispensed with and he is granted three weeks time for payment of the balance amount.

3. Post the matter on 01.07.2024 for "reporting



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compliance". If the order is complied with, the second respondent need not appear in person. Otherwise the second respondent shall be present before this Court in person."

[emphasis supplied]

6. When the second respondent had given an undertaking to comply with the order passed by the learned Single Judge and the same has been recorded in the order, referred supra, the present appeal at the instance of the first respondent in the writ petition to circumvent the direction issued by the writ court and to cop-out on the undertaking given in the contempt proceedings cannot be countenanced.

7. In the light of the undertaking given by the second respondent, which has been recorded in the order dated 10.6.2024 passed in Contempt Petition No.318 of 2024, we do not find any reason to entertain the present writ appeal. The writ appeal is, accordingly, dismissed. However, the grounds raised in the present appeal are left open for determination on merits in an appropriate



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case. There shall be no order as to costs. Consequently,
C.M.P.No.19080 of 2024 is closed.

(D.K.K., ACJ.) (P.B.B., J.)
03.09.2024

Index : Yes/No
NC : Yes/No
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THE HON'BLE ACTING CHIEF JUSTICE
AND
P.B.BALAJI, J.

(sasi)

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