



W.P.No.179.

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2024

CORAM:

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.17957 of 2021
and W.M.P.No.19179 of 2021

P.Muniyan

... Petitioner

Vs

1.The Deputy Registrar, (Diary),
O/o. The Deputy Registrar of Cooperative Societies,
Thiruvannamalai District – 606 604.

2.The President,
C-1807, Polur Milk Producers Cooperative Society Ltd.,
Polur, Thiruvannamalai District. ... Respondents

PRAYER:-Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the order of the first respondent made in Na.Ka.No.223/E/3021 dated 18.08.2021, to quash the same and to pass further order.

For Petitions : Mr.L.Chandrakumar

For Respondents : Mr.M.Murali
Government Advocate

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent made in Na.Ka.No.223/E/3021 dated 18.08.2021.

2. The facts of the case are that while the petitioner was working as a



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Secretary in the second respondent Society, he made a claim for withdrawing the amounts from the Group Gratuity Cash Accumulation Scheme from the LIC of India, Vellore in the month of February 2021 and the same was signed and forwarded by the petitioner, counter signed by the President of the second respondent Society and accordingly, certain amounts were withdrawn by the petitioner. In the said Form, it is indicated that the said amounts are sought to be withdrawn consequent upon the resignation of the petitioner from service. But, there was no such resignation submitted by the petitioner. The said amounts were sought to be withdrawn by misrepresentation. Thereafter, having noticed the said irregularity, an enquiry under Section 81 of the Cooperative Societies Act, 1983 were initiated. The petitioner having realised the consequences, came forward to repay the amounts and repaid certain amounts and an amount to a tune of Rs.40,875.71/- is due. Whether the petitioner is justified in withdrawing the said amounts from the LIC of India or not is not the subject matter of this Writ Petition.

3. It is also not the case of the respondents that they have initiated disciplinary proceedings against the petitioner for committing certain misconduct as noted above. However, the first respondent addressed the impugned letter dated 18.08.2021, calling for explanation from the second respondent as to how



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the petitioner was allowed to work even after the payment of gratuity amount of Rs.1,89,009/- was withdrawn on 25.02.2021 and accordingly, the President of the second respondent Society was instructed that she has to be wholly made responsible for all the transaction and also stated that the petitioner herein has to be discontinued from services. A copy of the said letter dated 18.08.2021 is also marked to the petitioner. Pursuant to the said letter, the petitioner was asked not to attend his duties in the second respondent's Society and he was stopped from working in the second respondent's Society thereafter. Aggrieved against the said action of the respondent, the petitioner has approached this Court by filing the present Writ Petition.

4. This Court, while entertaining the present Writ Petition, passed an interim order dated 26.08.2021 granting interim stay for a limited period and thereafter, the interim order was extended from time to time and the same is in operation as on date. Though, the first respondent filed a detailed counter affidavit, there is nothing to show that any disciplinary proceedings were initiated against the petitioner for the alleged misconduct. It appears that it is only on the ground that the petitioner withdraw the Gratuity amount, and on the ground that he has submitted his resignation, the first respondent came to a conclusion that the petitioner cannot continue in service in the second



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respondent Society. Admittedly, there are no disciplinary proceedings or any orders passed against the petitioner herein by imposing punishment as on date and admittedly, there is no resignation submitted by the petitioner to the second respondent. Hence, the action of the respondents, in not allowing the petitioner to discharge his duties in the capacity of Secretary in the second respondent Society cannot be said to be in accordance with the law.

5. In these circumstances, the impugned letter dated 18.08.2021 to the extent of requiring second respondent not to allow the petitioner to attend his duties in the second respondent Society is bound to be declared as illegal on the ground of violation of principles of natural justice.

6. Accordingly, the impugned letter 18.08.2021 is set aside to that extent as indicated above and this Writ Petition is allowed. However, it is made clear that in any case the second respondent intends to take any action against the petitioner for the alleged misconduct, it is always open for the second respondent to take such action strictly in accordance with the law. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Speaking order : Yes/No



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To
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O/o. The Deputy Registrar of Cooperative Societies,
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- 2.The President,
C-1807, Polur Milk Producers Cooperative Society Ltd.,
Polur, Thiruvannamalai District.



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MUMMINENI SUDHEER KUMAR, J.

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