



W.P.(MD)No.7565 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 28.02.2024

Pronounced on : 08.03.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

W.P.(MD)No.7565 of 2021

and

W.M.P.(MD)Nos.5737 of 2021 and 7827 of 2022

The President,
Aathinathapuram Priminary Agriculture
Co-operative Credit Society,
Office at Alwarthirunagari and Post,
Eral Taluk,
Thoothukudi District.

... Petitioner

Vs.

1. The Principal Secretary to Government,
Cooperative, Food and Consumer
Protection Department,
Fort St.George,
Chennai – 600 009.
2. The Registrar of Cooperative Societies,
NVN Natarajan Maligai,
Kilpauk, Chennai – 10.
3. The Joint Registrar of Cooperative Societies,
Thoothukudi.



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4. The Deputy Registrar of Cooperative Societies,
Thiruchandur, Thoothukudi District.

... Respondents

Prayer : This Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the impugned order passed by the fourth respondent dated 15.03.2021 bearing Na.Ka.No.1484/2016 Sa.Pa and quash the same.

For Petitioner : Mr.R.Saravanan

For Respondents : Mr.P.Thambidurai
Government Advocate

ORDER

The Writ Petition is directed against the letter issued by the fourth respondent in Na.Ka.No.1484/2016 Sa.Pa dated 15.03.2021.

2. The case of the writ petitioner is that he was elected as President for the writ petitioner Society in 2018, that the writ petitioner Society is a co-operative institution registered under the Tamil Nadu Co-operative Societies Act and Rules made thereunder, that pay revision was fixed from 01.04.2008 as per the Government Order in G.O.No.189, Co-operative, Food and Consumer Protection Department dated 17.11.2009, that while



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fixing the monthly salary, Dearness Allowance was added with basic bay and thereby monthly salary was fixed and paid, that the employees of the Society were already drawing 97% as Dearness Allowance prior to 31.03.2008, that while fixing the monthly salary from 01.04.2008, Dearness Allowance was reduced from 97% to 84% and the same was added along with the salary and paid and that the employees of the Society, aggrieved by the said order, had filed a batch of writ petitions in W.P.(MD)Nos.9140, 9186 and 14636 of 2014 and the same were allowed on 19.12.2018.

3. It is the further case of the writ petitioner that the common order of this Court dated 19.12.2018 was intimated to the third respondent, who in turn, has issued a letter dated 27.03.2019, wherein, it has been stated that the revised salary had to be fixed as per the High Court order, that the third respondent has further stated that in case if the Society financial condition is not good, then the Society is at liberty to file an appeal, that since the writ petitioner Society is running in good profit, they did not opt to prefer the appeal, that in the meanwhile, the fourth respondent has issued a proceedings dated 12.02.2020 to intimate them the steps taken by



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the Societies with regard to the order passed by the High Court, that the writ petitioner Society had intimated that the order passed by the High Court had already been implemented, that thereafter the fourth respondent has issued a letter dated 23.12.2020 and 08.01.2021 instructing the writ petitioner to prefer appeal against the order passed in W.P.(MD)No.9140 of 2014, that the writ petitioner had sent a reply by narrating all the facts on 12.01.2021, but the fourth respondent has sent the impugned letter dated 15.03.2021 contemplating action against the writ petitioner for causing loss to the Society by not preferring any appeal and that therefore, the writ petitioner was constrained to file the present writ petition challenging the said letter dated 15.03.2021.

4. The learned counsel appearing for the writ petitioner would submit that they have relied on Section 136-D(2) of the Tamil Nadu Co-operative Societies Act, which contemplates that a short term co-operative credit structure society shall have autonomy in all financial and internal administrative matters, but the learned Government Advocate (Civil Side) appearing for the respondents would submit that the said provision i.e., Section 136-D(2) was ordered to be omitted by amendment to the Tamil



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Nadu Co-operative Societies Act, 1983. It is not in dispute that as per the Act 36 of 2022, Sub Section (2) of Section 136-D of the Tamil Nadu Co-operative Societies Act was ordered to be omitted.

5. Moreover, the learned Government Advocate (Civil Side) appearing for the respondent would submit that the writ petitioner is an elected President of the writ petitioner Society and his period was already expired, that thereafter the Deputy Secretary to Government (Co-operative, Food and Consumer Protection Department) filed an appeal against the order passed in W.P.(MD)No.9140 of 2014 along with an application in C.M.P.(MD)No.11880 of 2022 in unnumbered Writ Appeal in W.A.(MD)SR.No.75463 of 2022 and that therefore, the present writ petition has become infructuous and he has also filed a Memo to the said effect. The learned counsel appearing for the writ petitioner has not disputed the submission made by the learned Government Advocate (Civil Side).

6. Considering the above facts and circumstances and also taking note of the submission made by the learned Government Advocate (Civil Side) that appeal has already been filed challenging the order passed in



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W.P.(MD)No.9140 of 2014, the prayer claimed in the present writ petition has become infructuous and as such, nothing survives for further adjudication.

7. In the result, this Writ Petition is dismissed as infructuous.

Consequently, connected Miscellaneous Petitions are closed. No costs.

08.03.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm

To

1. The Principal Secretary to Government,
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4. The Deputy Registrar of Cooperative Societies,
Thiruchandur,
Thoothukudi District.

5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

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Pre-Delivery Order made in
W.P.(MD)No.7565 of 2021
and
W.M.P.(MD)Nos.5737 of 2021 and 7827 of 2022

Dated :08.03.2024