



W.P.(MD).No.9439 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.9439 of 2021

Selvam

... Petitioner

Vs.

- 1.The Joint Registrar,
Office of the Joint Registrar of
Co-operative Societies,
Thanjavur Region,
Thanjavur District.
- 2.The Deputy Registrar,
Office of the Deputy Registrar of
Co-operative Societies,
Kumbakonam, Thanjavur District.
- 3.The President,
Z637, Swamimalai Primary Agriculture
Co-operative Credit Society Ltd.,
Swamimalai Post,
Kumbakonam Taluk,
Thanjavur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 3rd respondent to pay the subsistence allowance entitled by the petitioner from the date of his



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suspension dated 31.05.2018 based on the petitioner's representation dated 16.02.2021.

For Petitioner : Mr.S.Santhakumar,
For Mr.N.Anandakumar

For R-1 & R-2 : Mr.M.Senthil Ayyanar,
Government Advocate

For R-3 : Mr.Niranjan S. Kumar

ORDER

This writ petition has been filed seeking direction to the 3rd respondent to pay the subsistence allowance for which the petitioner is entitled from the date of his suspension dated 31.05.2018 based on the petitioner's representation dated 16.02.2021.

2. The brief facts which are necessary for the disposal of this Writ Petition are as follows:-

The petitioner was working as a Secretary in the 3rd respondent Society from 2012 to 2018. During 2018, he was visited with a suspension order on 31.05.2018. However, from the date of suspension so far, he has not been



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provided with subsistence allowance as mandated by the law. Hence, he made a representation, seeking subsistence allowance and the same was not considered. Hence, the petitioner filed a writ petition in W.P.(MD)No.17767 of 2020 seeking for subsistence allowance and this Court, by an order dated 07.12.2020 disposed of the said writ petition, directing the 3rd respondent to disburse the subsistence allowance of the petitioner by considering his representation dated 05.10.2020 within a period eight (8) weeks. Pursuant to the same, the 2nd respondent, vide proceedings in Na.Ka.No.3773/2020/ ஸ்டீடீடீ dated 06.01.2021, communicated the petitioner informing the inability to provide him with the subsistence allowance in the absence of non-employment certificate and residence certificate in proving his residence in the headquarters as per the Fundamental Rules. Following which, the petitioner made yet another representation dated 16.02.2021 along with the necessary documents as required by the 2nd respondent in his proceedings dated 06.01.2021. Even after that, the subsistence allowance is not provided by the 3rd respondent. Hence, this writ petition came to be filed.



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3. The learned counsel appearing for the petitioner submitted that, it is his fundamental right to receive the subsistence allowance while remaining under suspension. Despite the order of this Court dated 07.12.2020, the same is not provided and pressed for allowing the writ petition.

4. Per contra, the learned Government Advocate relying upon the counter affidavit filed by the 2nd respondent, submitted that, pursuant to the suspension, a departmental proceedings was initiated as against him and an Enquiry Officer was also appointed. Simultaneously, a criminal case came to be registered as against him for taking away the account books, store room keys, safety lockers and books of accounts from the 3rd respondent Society. Further, he absconded from the particular area and also never cooperated with the departmental proceedings as well as the enquiry before the jurisdictional police station. Hence, the 3rd respondent was constrained to file a writ petition in W.P. (MD)No.2243 of 2020 with the permission granted by the 2nd respondent in the said writ petition and this Court was pleased to pass an order dated 02.03.2020, directing to break the safety locker and store room in the presence of the 3rd respondent Society and the revenue and police officials. Accordingly, on



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13.03.2020 when the locker was broken in the presence of the revenue authority and the jurisdictional police, a shortage of 2522.200 grams of gold, the market value of which is approximately Rs.1,10,00,000/- (Rupees One Crore Ten Lakhs only) was found missing. Pursuant to the same, umpteen number of summons and notices were issued to the petitioner, evading the same, the petitioner is before this Court seeking subsistence allowance and pressed for dismissal of the writ petition.

5. The learned counsel appearing for the 3rd respondent submitted that, a tale of misappropriation by the petitioner will not conclude at that point and thereafter, the 3rd respondent society has duly considered his representation, pursuant to the order passed by this Court in W.P.(MD)No.17767 of 2020 dated 07.12.2020. The said representation was duly considered by the 3rd respondent Society by the letter No.1 of 2021 dated 15.03.2021 elaborating the entire fraud committed by him while in service with the 3rd respondent Society.

6. In view of the rejection of the subsistence allowance to the petitioner, vide letter No.1 of 2021 dated 15.03.2021 by the 3rd respondent society, giving



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liberty to the petitioner to challenge the same, this writ petition stands disposed of. There shall be no order as to costs.

26.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

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- 2.The Deputy Registrar,
Office of the Deputy Registrar of
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L.VICTORIA GOWRI, J.

Sml

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