



W.P.(MD).No.10704 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.10704 of 2023

and

W.M.P.(MD).Nos.9432 & 9433 of 2023

Assaf Ali Bathusha

... Petitioner

VS

1.The Joint Registrar of Co-operative Societies,
Thoothukudi Region,
Office of Joint Registrar of Co-operative Societies,
39B, T.R.Nayudu Street, 1st Floor,
Thoothukudi District.

2. The Deputy Registrar of Co-operative Societies,
Office of Deputy Co-operative Officer,
Medona Street,
Veera Pandian Pattinam,
Tiruchendur, Thoothukudi District.

3. S.D.Shivagami,
Managing Director of Thoothukudi District,
Central Co-operative Bank,
Ettayapuram,
Thoothukudi District.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of Certiorari, to call for the records related to the proceedings of the 1st respondent dated 19.10.2022 in G.O.Ms.No.221, High Education (D2) Department and also the consequential communication of the 2nd respondent in Na.Ka.No.22963/G3/2021 and quash the same.

For Petitioner : Mr.N.Dilip Kumar
For Respondents Nos.1 & 2 : Mr.S.Shanmugavel
Additional Government Pleader

ORDER

The instant writ petition has been filed by a President of a Primary Agricultural Co-operative Society challenging the order passed by the Joint Registrar of Co-operative Society, wherein the petitioner has been suspended.

2. According to the learned Counsel appearing for the writ petitioner, the Registrar of Co-operative societies alone is empowered to suspend the President of a Co-operative Society by exercising his powers under Section 76A(1) of TamilNadu Co-operative Societies Act, 1983. However, the present impugned order, having been passed by a Joint Registrar of Co-operative Societies is illegal and liable to be set aside.



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3. Per contra, the learned Government Pleader appearing for the 1st and 2nd respondents herein had relied upon G.O.(Ms) (2D).No.108, Co-operation, Food and Consumer Protection Department dated 11.08.2005, wherein, Joint Registrar of Co-operative Society has been delegated with all the powers of registrar in respect of any primary or central society. Therefore, according to the learned Counsel appearing for the Respondent, the Joint Registrar of Co-operative Societies is a competent authority as per the above said Government Order, therefore, the impugned order has to be sustained.

4. The learned Counsel appearing for the writ petitioner on the other hand contends that Section 76A(1) of the TamilNadu Co-operative Societies Act, 1983 was introduced by way of amendment in the year 2020 and came into force only on 26.02.2020. Therefore, the Government Order issued in the year 2005 cannot be relied upon to confer powers upon to the Joint Registrar of Co-operative Societies. The learned Counsel appearing for the petitioner has also relied upon the judgement of this Court in W.P.No.27972 of 2022 dated 11.08.2023 to the effect that the said government order cannot be relied on by the Joint Registrar of Co-operative Societies to usurp the powers conferred upon registrar under Section 76 A of the TamilNadu Co-operative Societies Act, 1983.



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5. The issue is no longer *Res integra*, the learned Single Judge in the above said writ petition has also referred the orders of this Court in W.P.No.16136 of 2023 dated 07.07.2023 and W.P.(MD).No.23902 of 2022 to arrive at a conclusion that the power of delegation granted to the Joint Registrar of Co-operative Societies in the year 2005 cannot be utilized to invoke the exclusive powers of the Registrar conferred under Section 76A of the TamilNadu Co-operative Societies Act, 1983.

6. The learned Counsel appearing for the 1st and 2nd respondents further contended that the tenure of the President have been expired in the month of October-2023, therefore, nothing survives to be adjudicated in the writ petition.

7. However, this Court is of the considered opinion that the order impugned in this writ petition is stigmatic in nature and therefore, unless the competency of the Joint Registrar of Co-operative Societies is set aside, that it will be a stigmatic order.



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8. In view of the above said deliberations and the orders of this Court passed in other series of writ petitions, the Joint Registrar of Co-operative Societies is not empowered to exercise his powers under Section 76A of TamilNadu Co-operative Societies Act to suspend the President of the Co-operative Societies invoking the G.O.(Ms) (2D).No.108, Co-operation, Food and Consumer Protection Department dated 11.08.2005.

9. In view of the above said deliberations, the orders impugned in this writ petition is set aside. This writ petition is stands allowed. Consequently, connected miscellaneous petitions are closed. No costs.

22.10.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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R.VIJAYAKUMAR,J.

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To

1.The Joint Registrar of Co-operative Societies,
Thoothukudi Region,
Office of Joint Registrar of Co-operative Societies,
39B, T.R.Nayudu Street, 1st Floor,
Thoothukudi District.

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