



W.P.(MD)No.20518 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2024

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.20518 of 2022

and

W.M.P.(MD)No.14859 of 2022

C.Archunan

... Petitioner

Vs.

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

2.The Circle Deputy Registrar
Co-operative Societies,
Uthamapalayam Circle,
Theni District.

3.The President,
M.D.Spl.22, B.Meenakshipuram
Primary - Agricultural Cooperative
Credit Society,
B.Meenakshipuram,
Bodinayakanur Taluk,
Theni District.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for records pertaining to the impugned order dated 12.05.2021 passed by the 3rd respondent and the consequential order dated 12.01.2022 in Na.Ka.2422/2021 & 1 of the 1st respondent and consequentially direct the 3rd respondent to grant all benefits to the petitioner which were stopped due to the impugned order dated 12.05.2021.

For Petitioner : Mr.A.Mohan

For R-1 & R-2 : Mr.S.Shanmuga Vel,
Additional Government Pleader

For R-3 : Mr.C.Pethuraj

ORDER

The instant Writ Petition has been filed by a sales man of the ration shop, challenging the order of imposition of punishment of postponement of three increments with cumulative effect on the ground that the petitioner was involved in political activities.



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2. The petitioner was issued with a charge memo on 12.04.2021.

The summary of the charge memo is as follows:

i) The petitioner is showing off himself as belonging to one political party.

ii) The Co-operative Society is involved in disbursement of agricultural loans and public distribution system, therefore, the employee is expected to act impartially.

iii) On 09.03.2021, a photograph was published in a Thinakaran Tamil daily indicating the fact that he has joined political party.

iv) It is heard that he is likely to join in a political party without informing the Co-operative Society and therefore, there is a doubt whether the petitioner would act impartially in future.

v) In view of violation of the rules and regulations, the petitioner was directed to submit his explanation.

3. The petitioner has submitted his explanation to the effect that he has not joined any political party and he is only a member of a Trade Union. He has also contended that he has no intention to join any



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political party. After conducting an enquiry, it was found that he has joined that particular political party and during the enquiry, the Enquiry Officer has found that his photographs had appeared in a newspaper as if he had joined a political party. Based upon the said findings, it was concluded that the petitioner has acted with partiality and there was dereliction of duty on his part.

4. Based upon the enquiry report, the petitioner was imposed with a punishment of postponement of three increments with cumulative effect. Against which the petitioner has preferred an appeal to the 1st respondent and the 1st respondent has modified the punishment as postponement of increments for two years with cumulative effect. These orders are under challenge in the present writ petition.

5. According to the learned counsel appearing for the writ petitioner, the petitioner has been charged based upon news items and it is false that he has joined any political party.



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6. The 1st respondent has filed a counter affidavit contending that the enquiry was conducted properly and he has been found guilty of joining a political party.

7. Heard the learned counsels on either sides and carefully perused the materials available on record.

8. The petitioner is a salesman working in a fair price shop which is run by the 3rd respondent Co-operative Credit Society. Clause 19 of the by-laws of this Society is extracted as follows:

“19. Restrictions for seeking elections to Legislature, Local Authority etc.,

No employee shall contest or canvass or otherwise interfere or use his influence in connection with or take part in any election to any Legislature or Parliament or Local Authority or any institution constituted under any State or Central Act or any cooperative society other than the society in which he is a member:

Provided that he may record his vote if he is qualified to do so and where he does so he shall not disclose the manner in which he proposes to vote or has voted.”



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9. A perusal of the by-laws would clearly indicate that the employee is prohibited from contesting or canvassing or taking part in any election in the legislature or parliament or local authority. In the present case, the charge memo does not reflect that the petitioner has contested or canvassed for any political party. There is no allegation to the effect that he has interfered or used his influence in connection with any political party. He has also not taken part in any election to any legislature or parliament or local authority. Therefore, the allegation that he had violated the by-laws of society is not legally sustainable.

10. The entire charges have been levied only based upon the photographs published in the newspaper in which the petitioner is seen in the company of certain political persons. The petitioner is not a Government servant and therefore, there is no specific prohibition under the Co-operative Societies Act or under the by-laws of Society prohibiting the petitioner from identifying himself with any particular political party unless the said association impedes any of his activities as a sales person in the concerned fair price shop.



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11. In view of the said deliberations, the orders impugned in the writ petition are not legally sustainable and the same are set aside.

12. Accordingly, this writ petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

02.09.2024

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

To

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Theni District.

2.The Circle Deputy Registrar
Co-operative Societies,
Uthamapalayam Circle,
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R.VIJAYAKUMAR, J.

Sml

Order made in
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