



W.P.(MD).No.20064 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.20064 of 2024

and

W.M.P.(MD)No.17037 of 2024

H.Gokuldas

... Petitioner

-vs-

- 1.The Secretary to Government,
Co-Operation, Food and Consumer Protection Department,
Fort St. George, Chennai - 9.
- 2.The Registrar of Co-Operative Societies,
N.V. Natarajan Maligai,
170, E.V.R. Periyar Road,
Kilpauk, Chennai - 600010.
- 3.The Joint Registrar of Co-Operative Societies,
Thanjavur Region,
Samiyappa Co-Op Training Institute Campus,
Medical College Road, Thanjavur - 7.
- 4.The Deputy Registrar of Co-Operative Societies,
Thanjavur Region,
Samiyappa Co-Op Training Institute Campus,
Medical College Road, Thanjavur - 7.
- 5.Thanjavur Nagai Thiruvarur Districts,
Medical Department Employees,
Co-Operative Thrift and Credit Society Limited,
Rep. by its Administrator,



W.P.(MD).No.20064 of 2024

Raja Mirasdar Hospital Campus,
Thanjavur -1.

6.The Assistant Director,
Co-Operative Audit Department,
Thanjavur.

... Respondents

(R6 is Suo Motu Impleaded vide Court Order dated.06.09.2024 in this writ petition.)

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the 5th respondent vide his Proceedings dated 31.01.2024 on the part of order of recovery alone and quash the same as illegal and to direct the 5th respondent to pay the retirement benefits with interest without any recovery.

For Petitioner : Mr.D.Senthil

For Respondents : Mr.S.Shaji Bino

Special Government Pleader

ORDER

The instant writ petition has been filed by the Secretary of a Cooperative Society challenging the order passed by the Administrator of the said society, wherein a sum of Rs.15,12,281/- was retained from his terminal benefits on the ground of pending audit objections.



W.P.(MD).No.20064 of 2024

WEB COPY

2. According to the learned counsel appearing for the petitioner, the petitioner along with others had filed a writ petition in WP.No.34374 of 2012, wherein he had challenged the order of Registrar of Cooperative Societies and had prayed for a direction as against the Special Officer not to recover any amount from his terminal benefits. This Court, by an order dated 04.04.2024 has arrived at a finding that the entire arrears amount paid to the petitioner and others have been validated by the orders of the Deputy Registrar dated 02.11.2015 and payments made to the writ petitioners therein have been approved. However, this has not been brought to the notice of the Auditor and therefore, objections have been raised. After recording the said finding, the writ Court had disposed of the writ petition with a direction to the petitioner to take appropriate steps to cancel the audit objections.

3. Pursuant to the orders of this Court, the petitioner has addressed representations on 28.03.2024 and 28.06.2024 to the sixth respondent herein seeking to delete the audit objections so that his terminal benefits could be released in entirety without any retention. However, no order was passed. The present impugned order has been passed by the fifth respondent retaining a sum of Rs.15,12,281/- on the ground that so far audit objections have not been cleared. Hence, the present writ petition.



W.P.(MD).No.20064 of 2024

WEB COPY

4. The fourth respondent herein has filed a counter affidavit, wherein paragraph Nos.9 and 10 are extracted as follows:-

“9.I respectfully submit that, in the given circumstances the Deputy Registrar of the Co-operative Societies released the writ petitioner from the surcharge proceedings in the proceedings in Na.Ka.No.207/2015/S.F, dated 02.10.2015.

10.I respectfully submit that, though the surcharge proceedings that stood against the writ petitioner was discharged in the proceedings in Na.Ka.No.207/2015/S.F., dated 02.10.2015, the audit paras pertaining to the same issue still continues and the writ petitioner has taken steps to clear the audit paras but failed to pursue the same in the manner known to law to clear the audit objection completely.”

5. In view of the counter affidavit filed by the fourth respondent, it is clear that the petitioner has been discharged from the surcharge proceedings and payments made to the petitioner have already been validated by the Deputy Registrar of Cooperative Societies. From the counter affidavit, it could be seen that the petitioner is blamed for not approaching the Audit Department for deleting audit objections. Therefore, it is clear that despite the validation of the payments made to the petitioner, audit objections that were raised on an earlier point of time have not been deleted. Though the



W.P.(MD).No.20064 of 2024

petitioner has approached the sixth respondent by way of representations dated 28.03.2024 and 28.06.2024, sofar, the sixth respondent has not passed any orders.

6. In view of the aforestated facts, the sixth respondent herein is directed to pass orders on merits and in accordance with law, based upon the representations made by the petitioner dated 28.03.2024 and 28.06.2024 and in the light of the averments of the Deputy Registrar of Cooperative Societies in paragraph Nos.9 and 10 of the counter affidavit, which are extracted supra, within a period of twelve weeks from the date of receipt of a copy of this order.

7. With the aforesaid direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

27.09.2024

NCC : Yes/No
Index : Yes / No
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W.P.(MD).No.20064 of 2024

R.VIJAYAKUMAR, J.

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To

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- 6.The Assistant Director,
Co-Operative Audit Department, Thanjavur.

Order made in
W.P.(MD)No.20064 of 2024

Dated:
27.09.2024