



W.P(MD)No.17422 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.17422 of 2015 and
MP(MD) No.1 of 2015

A. Natarajan

... Petitioner

Vs

1.The District Collector,
Virudhunagar District.

2.The Registrar of Co-Operative Societies,
Chennai.

3.A1601 Srivilliputtur Co-operative Weavers
Production and Sales Society Limited,
Srivilliputtur,
Through its Managing Director/Textile Control Officer.

4.The President,
A1601 Srivilliputtur Co-operative Weavers
Production and Sales Society Limited,
Srivilliputtur.

Respondents

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 the records of the 3rd respondent relating



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to the impugned order dated 03.09.2015 and quash the same and direct the Respondents to allow the Petitioner to continue as a member of the 3rd Respondent Society.

For Petitioner : Mr.R.Saravanan
For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

The petitioner was a member of A1601 Srivilliputtur Co-operative Weavers Production and Sales Society Limited, Srivilliputtur/the third respondent herein. He was assigned with membership No.2778. Subsequently, he was removed from his membership by the impugned order dated 03.09.2015 as per Section 23 of the Tamil Nadu Co-operative Societies Act,1983 and the same is under challenge in this writ petition.

2.This writ petition was entertained in the year 2015 and the same is pending for the past nine years. The petitioner, who was admitted as a member of the third respondent Society was removed as per the resolution of General body meeting dated 11.08.2015 that he has acted against the interest of the Society.



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3.A counter affidavit has been filed that the petitioner is a petition monger and has raised false allegations as against the administration and therefore, by a letter dated 04.07.2015, the petitioner was asked to explain why he has acted adversely to the interest of the Society, adhering to Section 25 of the Tamil Nadu Co-operative Societies Act. The explanation of the petitioner dated 09.07.2015 was not satisfactory to the management and therefore, by a resolution dated 03.08.2015, the petitioner was removed from the membership. The said proposal was also approved by the Assistant Director of Handloom and Textiles.

4.The learned counsel appearing for the petitioner submits that the Society is buying powerloom products and converting them into handloom products. However, without procuring the powerloom, huge production has been recorded by the Society in order to avail certain benefits. The petitioner has obtained these details under the RTI Act by filing an application before the



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Deputy Director of Handloom. Aggrieved over that, the petitioner was vindictively removed from the membership. The learned counsel by referring to Section 25 of the Act submits that they have not issued any charge memo and they have not assigned any reasons for removing the petitioner from the Society. Moreover, the decision has been taken without any approval from the Registrar. According to him, the Society did not conduct any enquiry about the alleged misconduct and the impugned order has been passed without even conducting the general body meeting.

5.The learned Special Government Pleader appearing for the respondents submits that as against the order impugned in this writ petition, the petitioner is having an appeal remedy under Section 152 (2)(a) (I) (iv) before the Director of Handloom and Textiles. She further submits that the requirement under Section 25 of the Co-operative Act was complied with and the decision of the General Body meeting was approved by the Assistant Director of Handloom and Textiles. She further submits that the Co-operative



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Societies are not amenable under the RTI Act and the petitioner cannot maintain this writ petition as against this Society.

6.This Court considered the rival submissions made and also perused the materials placed on record.

7.Admittedly, the petitioner was a member of the Society. He was removed from his membership by the order impugned in this writ petition. It appears that the decision has been taken in the General Body meeting which was held on 11.08.2015. The petitioner has raised a specific ground that no such General Body meeting was conducted and another ground was raised that for having questioned the manner in which the Society was functioning, he was targeted and removed from his membership. On the other hand, the respondent claims that the petitioner was provided with an opportunity and show cause notice was issued on 04.07.2015. However, the show cause notice, dated 04.07.2015 has not been placed before this Court. Perusal of records reveals that there is no



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reference about the notice, dated 04.07.2015 in the order impugned in this writ petition. Expulsion of the member of any Co-operative Society is enumerated under Section 25 of the Tamil Nadu Co-operative Societies Act and the same is extracted as under:-

“25. Expulsion:-

(1) Any member of registered Society, who has acted adversely to the interests of the society may be expelled upon a resolution of the general body passed at a special meeting convened for the purpose by the votes of not less than two-thirds of the total number of the members present and voting at the meeting. The quorum for such special meeting shall be-

(i) in the case of societies having membership not exceeding one thousand, not less than one fourth of the total membership, or one hundred members, whichever is less;

(ii) in other cases two hundred members;

Provided that no such special meeting shall be called by the board except upon the requisition in writing by not less than one-fourth of the total number of members of the society or twenty-five members, whichever is less.

(2) No member shall be expelled under sub-section (1) without being given an opportunity in the manner prescribed of making his representations and until the resolution



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referred to in that sub-section is approved by the Registrar.

A copy of the resolution expelling the member as approved by the Registrar shall be communicated to the member”

8.Rule 37 of Tamil Nadu Co-operative Societies Rules, 1988 prescribes certain modalities before the the expulsion under Section 25 of the Tamil Nadu Co-operative Societies Act,1983 and the same is extracted as under:-

“37. Manner of giving opportunity to a member before expulsion under section 25.

(1) On receipt of the requisition in writing under sub – section (1) of section 25, the society shall, within a period of fifteen days from the date of receipt of the requisition in the office of the society, communicate a copy of such requisition to the member concerned calling upon him to make his representation, if any, within a period of fifteen days from the date of receipt by him of such communication.

(2) The member concerned shall also be given an opportunity of being heard at the special meeting convened for the purpose under sub-section (1) of section 25.”



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9.Here, in the present case on hand, there is no material that the petitioner was provided with an opportunity before his expulsion. On this ground, this impugned order is liable to be set aside.

10.Accordingly, this writ petition is allowed. The impugned order, dated 03.09.2015 is hereby set aside. No costs. Consequently, connected Miscellaneous petition is closed.

29.01.2024

NCC:Yes/No
Index:Yes/No
Internet:Yes
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B.PUGALENDHI, J.

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