



W.P.(MD).No.19858 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.19858 of 2023

and

W.M.P(MD)Nos.16400, 25605 of 2023, 11173 and 20833 of 2024

N.Vairavan

... Petitioner

Vs

1.The Regional Joint Registrar,
Co-operatives Society,
Theni, Theni District.

2.The Circle Deputy Registrar,
Co-operatives Society,
Periyakulam Circle,
Theni District.

3.The Administarar,
MP 93, Myladumparai Primary Agricultural Co-operative
Credit Society Limited,
Myladumparai,
Theni District.

... Respondents

PRAYER: Writ Petition is 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 issued by the 3rd respondent dated 29.07.2023 and quash the same and consequently direct the respondents to reinstate petitioner to continue as Assistant Secretary at 3rd respondent Society.



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For Petitioner

: Mr.Sricharan Rangarajan
Senior Counsel
for M/s.C.Jeganathan

For Respondents

: Mr.R.Baskaran
Additional Advocate General
assisted by
Mr.D.Sasikumar
Additional Government Pleader
for RR1 & 2
Mr.P.Mahendran for R3

ORDER

The instant writ petition has been filed by an Assistant Secretary working in the third respondent Co-operative Credit Society, challenging the order of dismissal, dated 29.07.2022 passed by the then President of the Society.

2.The petitioner herein who was originally appointed as Clerk in the third respondent Society was later promoted as an Assistant Secretary in the year 2020. Certain allegations were made as against the writ petitioner, pursuant to which proceedings were initiated under Section 81 of the Tamil Nadu Co-operative Societies Act.



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3.It is also brought to the notice of the Court that criminal proceedings have also been initiated. The petitioner was found to be involved in certain misconduct and an award was passed as against him under Section 87 of the Tamil Nadu Co-operative Societies Act, which is under challenge before the Co-operative Tribunal.

4.The petitioner was issued with a charge memo dated 29.07.2022 which had culminated in a punishment of postponement of increment for a period of one year with cumulative effect. A second charge memo was issued to the writ petitioner on 30.04.2022 in which domestic enquiry was conducted and an enquiry report came to be filed on 09.05.2022. After submitting his further explanation to the enquiry report, the petitioner was imposed with punishment of censure. The order of suspension imposed upon the petitioner on 21.12.2021 was also revoked and the petitioner was directed to report for duty on 12.05.2022.

5.The President, who has passed the said order was placed under suspension by the Joint Registrar of the Co-operative Society by way of his proceedings dated 24.06.2022 invoking Section 76A of the Tamil Nadu



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Co-operative Societies Act. Pursuant to the said order one Perumal was placed in-charge to the post of President of the third respondent. On 29.07.2022, he has passed a present impugned order removing the petitioner from service. This order is put to challenge in the present writ petition.

6. According to the learned Senior Counsel appearing for the writ petitioner, as per the impugned order dated 29.07.2022, the removal from service order has passed based upon the very same charge memo dated 30.04.2022 and the enquiry report dated 09.05.2022 for which punishment was already imposed with a punishment by the former President on 10.05.2022. He further contended that once the competent authority has passed an order of punishment pursuant to a charge memo, the next President cannot alter the punishment and he does not have any powers to do so.

7. Per contra, the learned Additional Advocate General appearing for the respondents 1 and 2 herein had contended that the speed with which the enquiry was completed by the former President and final orders were passed on 10.05.2022 were one of the reasons for suspending the President by way of proceedings dated 24.06.2022. In such an event, impugned order passed by the next President namely, Perumal cannot be found fault with.



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8.The learned Counsel appearing for the third respondent herein had contended that huge loss to a tune of Rs.95,00,000/- has been caused, in view of the misconduct of the writ petitioner. That apart the petitioner is already facing criminal proceedings and has also suffered an order under Section 87 of the Co-operative Societies Act. In such circumstances, the order of President cannot be found fault with.

9.I have carefully considered the submissions made by all the Counsels and perused the materials available on record.

10.The only issue that arises for consideration is that, when the final order of punishment has been imposed by the competent authority in pursuant to the charge memo dated 30.04.2022, whether the next incumbent to the office could modify the said punishment order and could impose a capital punishment or not.

11.A perusal of the order dated 10.05.2022 passed by the then President namely, V.Ravi, points out that the petitioner has been issued with a punishment of censure and his suspension order has been revoked and he has been directed



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to report for duty on 12.05.2022. However, the impugned order dated 29.07.2022 which imposes punishment of removal from service traces the same charge memo dated 30.04.2022 and the enquiry report dated 09.05.2022. Therefore, it is clear that the order of removal from service has been passed by the President of the Society without having any jurisdiction whatsoever. Once a charge memo has got culminated in an order of punishment, the successor to the office cannot modify the said order. The said power is vested only with the appellate authority or the revisional authority in case, if they wish to invoke the same. In such circumstances, this Court is of the considered opinion that the order impugned in the writ petition is not legally sustainable and the same is liable to be set aside.

12. With the above said observations, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are also closed.

03.12.2024

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

RJR

To

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