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W.P.(MD) No.5009 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.5009 of 2017

and

W.M.P.(MD) Nos.4045 of 2017 & 1201 & 3550 of 2018

M.Murugan

... Petitioner

-vs-

1.The Registrar of Cooperative Societies
No.170, Periyar E.V.R.Highways
Kilpauk, Chennai-10

2.The Deputy Registrar of
Cooperative Societies
Cheranmahadevi
Tirunelveli District

3.The President
EE.247, Singaneri Primary
Agriculture Cooperative
Credit Society
Singaneri, Tirunelveli District

4.The President
E.E.422, Nanguneri Primary
Agricultural Cooperative
Credit Society
Nanguneri, Tirunelveli District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the impugned order passed by the second respondent in Na.Ka.No.5859/2013 Thovesa, dated 20.04.2016 and to quash the same as illegal and further direct the respondents 2 to 4 to implement the order of permanent absorption of the petitioner as Secretary of the fourth respondent society as per proceeding number Nil dated 15.04.2015 of the fourth respondent.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.G.Suriya Ananth
Additional Government Pleader for R1 & R2
No appearance for R3 & R4

ORDER

The petitioner has challenged the impugned order, dated 20.04.2016, passed by the second respondent, re-deputing him to the third respondent – Society and appointing one Mr.M.Sheik Mohammed Mohideen in his place in the fourth respondent – Society, in this writ petition.



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2. At the outset, learned counsel for the petitioner would submit that Mr.M.Sheik Mohammed Mohideen, who has been appointed in the fourth respondent – Society in the place of the petitioner under the impugned order, has joined a different Department (Tamil Nadu Cooperative Marketing Federation Limited, Tirunelveli) as Assistant and therefore, he cannot join the fourth respondent – Society as per the impugned order.

3. Counter affidavits have been filed by the respective respondents denying the allegations of the petitioner in this writ petition.

4. Learned Additional Government Pleader appearing for the respondents 1 and 2, on instructions, would also fairly submit that Mr.M.Sheik Mohammed Mohideen has joined a different Department in the Government Service, as submitted by the learned counsel for the petitioner.

5. In view of the above submission, this Court is of the considered view that the impugned order, which is challenged in this writ petition, cannot be implemented in its letter and spirit.



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6. The petitioner also contends the following in this writ petition:

- (a) Earlier, he was working in the third respondent – Society and due to the surplus staff in the third respondent – Society, he was deputed to the fourth respondent – Society.
- (b) At the time of passing the impugned order, he was the Secretary of the fourth respondent – Society.
- (c) He claims that ever since he was deputed to the fourth respondent – Society, the fourth respondent – Society has been making enormous profits due to his role in the fourth respondent – Society.
- (d) Both the third respondent and fourth respondent – Societies have no objection for him to continue his work in the fourth respondent – Society.



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7. According to the petitioner, none of the aforesaid factors were considered by the second respondent while passing the impugned order.

8. Since Mr.M.Sheik Mohammed Mohideen, the person, who has to join the fourth respondent – Society in the place of the petitioner, has already joined another Department in the Government Service, the impugned order cannot be implemented in its letter and spirit and the petitioner having not been granted an opportunity with regard to his contentions raised in this writ petition, this Court is of the considered view that the impugned order has to be quashed and the matter has to be remanded back to the second respondent for fresh consideration.

9. Accordingly, this writ petition is allowed and the order, dated 20.04.2016, passed by the second respondent, is quashed. The matter is remanded back to the file of the second respondent for fresh consideration on merits and in accordance with law, after affording of an opportunity of hearing to the petitioner, with regard to his plea that there is no necessity for the second respondent to shift him from the fourth respondent – Society to the third respondent – Society. Such an exercise shall be completed within a



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period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the matter. No costs. Consequently, connected miscellaneous petitions are closed.

19.08.2024

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

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To:

- 1.The Registrar of Cooperative Societies,
No.170, Periyar E.V.R.Highways,
Kilpauk, Chennai-10.
- 2.The Deputy Registrar of
Cooperative Societies,
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ABDUL QUDDHOSE, J.

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