



W.P.(MD).No.23488 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 15.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.23488 of 2023

and

W.M.P(MD) Nos.19690 and 23962 of 2023

S.Sekar

... Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
Office of the Joint Registrar of Co-operative Society,
39B, 1st Floor, T.R.Naidu Street,
Thoothukudi – 628 002.
2. The Deputy Registrar of Co-operative Societies,
Office of the
Deputy Registrar of Co-operative Societies,
136, Polpettai,
Thoothukudi, PIN-628 002,
Thoothukudi District.
3. The Managing Director/Administrator,
Tuticorin District Central Cooperative Bank,
109/5D, Ettiyapuram Road,
Polpettai, Thoothukudi, PIN-628 002,
Thoothukudi District.



W.P.(MD).No.23488 of 2023

WEB COPY

4. O.344, Palaiyakaayal Primary
Agricultural Co-operative Credit Society,
Represented by its Administrator/ President,
Palaiyakaayal,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in Na.Ka.3113/2022 ThouVeKooSa, dated 16.05.2022 and quash the same and direct the respondents to reinstate the petitioner duty immediately.

For Petitioner : Mr.V.Rajiv Rufus

For R1 and R2 : Mr.D.Sasikumar
Additional Government Pleader

For R3 and R4 : Mr.D.Shanmuga Raja Sethupathi

ORDER

The instant writ petition has been filed by an Assistant Secretary of the fourth respondent Primary Agricultural Co-operative Credit Society, challenging the order of suspension issued by the first respondent herein in his capacity as a common cadre authority invoking Section 75 of the Tamil Nadu Co-operative Societies Act.



W.P.(MD).No.23488 of 2023

WEB COPY

2. According to the learned counsel appearing for the writ petitioner, only the Secretary of the Primary Agricultural Co-operative Society is borne in a common cadre service by way of the Tamil Nadu Primary Agricultural Co-operative Credit Society Common Cadre Service Rules, 2019. The Assistant Secretaries were not brought within the purview of the above said Rules. He further contends that the Assistant Secretaries were brought within the said purview only when the Rules were amended under G.O(Ms) No.29, Co-operation, Food and Consumer Protection (CN1) Department, dated 15.02.2024. Therefore, when the impugned order of suspension was passed on 16.05.2022, the first respondent was not competent to issue such an order.

3. The learned Additional Government Pleader appearing for the respondents 1 and 2 herein by filing a counter had contended that the petitioner was already promoted as a Secretary by way of resolution dated 02.05.2013 and therefore, from the said date onwards, he has borne in common cadre service and governed by the Rules. Therefore, the order passed by the first respondent herein on 16.05.2022 as a competent authority under the above said Rules is sustainable in law.



W.P.(MD).No.23488 of 2023

WEB COPY

4. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

5. A perusal of the resolution passed by the fourth respondent Co-operative Society, in the presence of Administrator of the Society on 02.05.2013 reveals that the petitioner, who was then working as an Assistant Secretary has been placed in charge to the post of Secretary which had fallen vacant due to the retirement of another staff. Therefore, it is clear that the petitioner continued to be an Assistant Secretary till the date of the impugned order and he was never promoted as a Secretary.

6. As per Section 76 of the Tamil Nadu Co-operative Societies Act, only those who are borne on a common cadre of service, the competent authority would be the common cadre authority, to initiate the disciplinary proceedings. For other paid officers or servants, the registered Society namely the President or the Administrator of the Society would be a competent authority to initiate disciplinary proceedings. In such circumstances, when the order of impugned suspension was passed on 16.05.2022, the first respondent was not competent to issue such an order.



W.P.(MD).No.23488 of 2023

WEB COPY

7. In view of the above said facts, the order impugned in the writ petition is set aside and this Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

15.11.2024

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

To

1. The Joint Registrar of Co-operative Societies,
Office of the Joint Registrar of Co-operative Society,
39B, 1st Floor, T.R.Naidu Street,
Thoothukudi – 628 002.
2. The Deputy Registrar of Co-operative Societies,
Office of the Deputy Registrar of Co-operative Societies,
136, Polpettai, Thoothukudi, PIN-628 002,
Thoothukudi District.
3. The Managing Director/Administrator,
Tuticorin District Central Cooperative Bank,
109/5D, Ettiyapuram Road,
Polpettai, Thoothukudi, PIN-628 002,
Thoothukudi District.
4. The Administrator/ President,
O.344, Palaiyakaayal Primary
Agricultural Co-operative Credit Society,
Palaiyakaayal, Thoothukudi District.



WEB COPY



W.P.(MD).No.23488 of 2023

R.VIJAYAKUMAR,J.

ebsi

W.P(MD)No.23488 of 2023

15.11.2024