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W.P.(MD) No.15836 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.15836 of 2017

and

W.M.P.(MD) No.12516 of 2017

The Venkanji Primary Agricultural
Co-operative Credit Society Ltd.,
Y-84, Kollemcode Post
Kanyakumari District
Rep. by its President

... Petitioner

-VS-

1.The Joint Registrar of
Co-operative Societies
Nagercoil
Kanyakumari District

2.The Deputy Registrar of
Co-operative Societies (FAC)
Tukalay, Kanyakumari District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to impugned proceedings of the second respondent in Na.Ka.2913/2015 Tho.Ve.Sa dated



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09.08.2017 and quash the same as illegal and consequently forbear the respondents from the interfering with the petitioner's selection process for appointing a suitable person in accordance with law to the sanctioned post of Office Assistant lying vacant in the society.

For Petitioner : Mr.M.Jerin Mathew

For Respondents : Ms.D.Farjana Ghoushia
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned proceedings of the second respondent, dated 09.08.2017.

2. Under the impugned proceedings, the second respondent has prevented the petitioner – Society from making appointments to the post of Office Assistant pursuant to their paper publication dated 08.08.2017, on the ground that they do not have the authority to make appointments to the said post without the administrative approval of the Co-operative Department. The respondents have directed the petitioner – Society to cancel the advertisement given by them for making appointments to the post of Office Assistant.



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3. The petitioner has challenged the impugned proceedings, on the ground that the respondents ought to have seen that the by-laws of the petitioner – Society enables them to make appointments to the post of Office Assistant. The petitioner also contends that the post of Office Assistant, though sanctioned by the respondents, is lying vacant from 16.02.2016 onwards and therefore, there became a necessity for them to make appointments to the said post. According to the petitioner, only in accordance with law, they have taken steps to fill up the vacancy to the post of Office Assistant. According to the petitioner, the post of Office Assistant will not come within the purview of the Recruitment Bureau and hence, the reason given in the impugned order by the respondents is arbitrary and illegal.

4. A counter affidavit has been filed by the respondents denying the contentions of the petitioner. They rely upon Rule 150(5)(a), (b) & (c) of the Tamil Nadu Co-operative Societies Rules, 1988 and would submit that the vacancies to the post of Office Assistant in Primary Co-operative Societies should be filled up only through the District Recruitment Bureau and hence, the steps taken by the petitioner – Society to fill up the said post on their own, without the approval of the respondents, are illegal.



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5. Admittedly, Rule 150(5)(a),(b)&(c) of the Tamil Nadu Co-operative Societies Rules, 1988, makes it clear that the vacancy for the post of Office Assistant in a Primary Cooperative Society can be filled up only through the District Recruitment Bureau and it cannot be filled up by a Society on its own accord.

6. Rule 150(5)(a), (b) & (c) of the Tamil Nadu Co-operative Societies Rules, 1988, reads as follows:

“150. Constitution of Recruitment Bureau.-

(1) (a) ...

...

(5) The Recruitment Bureau for a Revenue District shall recruit,-

(a) the paid officers and servants below the category of Junior Assistant and all the technical posts in respect of all categories of Apex Societies , which have to be filled up by direct recruitment.

(b) the paid officers and servants of all category including all the technical posts in respect of all categories of Central and Primary Societies, other than Staff and



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*Students Cooperative Stores which have to
be filled up by direct recruitment; and*

*(c) Salesman and Packer for
employment in the fair price shops under
the Public Distribution system.”*

7. When the aforesaid rule makes it clear that the petitioner – Society cannot fill up the vacancy to the post of Office Assistant on their own accord, without the approval of the respondents, the impugned proceedings preventing the petitioner – Society from doing so and directing them to cancel the advertisement cannot be held to be improper and there is no arbitrariness or illegality committed by the respondents in passing the impugned proceedings.

8. In the result, there is no merit in this writ petition and the same is, therefore, dismissed. No costs. Consequently, connected miscellaneous petition is closed.

21.10.2024

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

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To:

- 1.The Joint Registrar of
Co-operative Societies,
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- 2.The Deputy Registrar of
Co-operative Societies (FAC),
Tukalay, Kanyakumari District.



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ABDUL QUDDHOSE, J.

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