



*W.P.(MD) No.17830 of 2017*

**WEB COPY** BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 05.12.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.P.(MD) No.17830 of 2017**

**and**

**W.M.P.(MD) Nos.14347 and 19424 of 2017**

P.Muthuraman  
President,  
The Pachamalai Hill Tribes Large Sized Multipurpose  
Cooperative Society Ltd.,  
Top Sengattupatti Post,  
Thuraiyur Taluk,  
Trichy District 621 001.

... Petitioner

/vs./

1.The Joint Registrar of Cooperative Societies,  
O/o. the Joint Registrar of Cooperative Societies,  
Trichy Region, Multistoried Building,  
Kajamalai Nagar, Trichy.

2.The Deputy Registrar of Cooperative Societies,  
O/o. the Deputy Registrar of Cooperative Societies,  
Musiri Circle,  
Tiruchirappalli District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the 1st respondent vide Na.Ka.2402/2017/Sa.Pa



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dated 08.09.2017 and quash the same and consequently forbearing the respondents from any way interfering with the petitioner's function as President of the Pachamalai Hill Tribes Large Sized Multipurpose Co-operative Society Ltd.

For Petitioner : Mr.D.Shanmugaraja Sethupathi  
For Respondents : Mr.J.K.Jeyaseelan  
Government Advocate

### **ORDER**

The challenge in the writ petition is a proceeding related to Section 36 of the Tamil Nadu Cooperative Societies Act, 1983, (*herein after referred to as Act*) wherein the petitioner had been permanently barred from contesting any election in future. The charge as against the petitioner was that he has acted against the interest of the Government by not distributing the flood relief fund and with regard to the process of issuing cheques, upon which he had been held to be wilfully negligent in carrying out his duties.

2. The learned counsel appearing on behalf of the petitioner would contend that the grounds, on which the petitioner had been permanently disqualified, do not fall in any of the grounds indicated in Section 36 of the Act. He would specifically submit that there is no allegation of misappropriation, fraudulently



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retained any money or any other property or guilty of breach of trust or persistent negligence in connection with the conduct and management of, or of gross mismanagement of the affairs.

3. He would submit that the only allegation against the petitioner is that he had not distributed the flood relief fund, which had affected the functioning of the Government and that he had not followed the procedure for issuing cheques. Therefore, he would submit that the entire proceeding under Section 36 of the Act is only a ruse to keep the petitioner away from election due to his popularity among the members of the Society. Therefore, he would pray this Court to interfere with the order passed by the first respondent.

4. On the other hand, the learned Government Advocate appearing on behalf of the respondents would submit that the petitioner has acted in a negligent manner by not distributing the funds allocated for the flood relief to the affected persons and the procedure in issuing the cheques. Therefore, he would submit that when those allegations have been held to be proved after proper notice to the petitioner, there is no necessity for this Court to interfere with the same.



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5. I have considered the rival submissions made by the learned counsel on either side.

6. For better appreciation of the facts of the case, it would be relevant to analyze the provisions of Section 36 of the Act and for better appreciation, the same is extracted herein below:-

***“36. Disqualification and removal.***

*(1) Wherein the course of an audit under section 80 or an inquiry under section 81 or an inspection or investigation under section 82 or inspection of books under section 83, it appears that a person who is, or was, a member of a board has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society or of gross or persistent negligence in connection with the conduct and management of, or of gross mismanagement of the affairs of the society, the Registrar may, without prejudice to any other action that may be taken against such member by order in writing, disqualify him permanently from holding in future any office in any registered society.*



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*The Registrar shall, if such person holds office of member of the board, also by the same order remove him from that office.*

*(2) No person shall be disqualified or removed under sub-section (1) without being given an opportunity of making his representations. A copy of the order disqualifying or removing him shall be communicated to him.”*

7. The said provision envisages disqualification of removal of a person, who holds an office as member of the Board, if such member has a) misappropriated or fraudulently retained the money or any other property, b) being guilty of breach of trust in relation to the Society, c) gross or persistent negligence in connection with the conduct and management or gross mismanagement of the affairs of the Society. Even under the impugned order, the petitioner had been alleged to have not immediately distributed the flood relief fund and that he had not followed the procedure in signing of cheques. Both the charges have been explained to by the petitioner. However, the respondent had proceeded to hold that for both the charges, the petitioner would be liable to be disqualified from contesting elections in future.



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8. The allegations made against the petitioner do not fall within the contingency of a to c referred supra. Even for initiating proceedings under Section 36 of the Act under the said contingency, there should be a gross or persistent negligence or mismanagement of the affairs of the Society. In the present case, the allegations do not also fall within Clause 'a', as there has been no gross or persistent negligence in the conduct and management of the affairs of the Society.

9. For the aforesaid reasons, I am of the view that the order impugned in the writ petition is nothing but a colorable exercise of power to keep out the petitioner from contesting the elections in future. In fine, the Writ Petition stands allowed and the impugned order issued by the first respondent vide Na.Ka. 2402/2017/Sa.Pa dated 08.09.2017 is set aside. However, there shall be no order as to costs.

Index : Yes / No  
Internet : Yes / No  
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**K.KUMARESH BABU, J.**

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