



WEB COPY



W.P.No.187 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.02.2025

Coram

THE HON'BLE MR JUSTICE C.V.KARTHIKEYAN

W.P.No.187 of 2024 &
WMP.No.206 of 2024

S.Elangovan

... Petitioner

-Versus-

1.The Deputy Registrar,
Dairy Development,
Thiruvallur.

2.The General Manager,
Kancheepuram-Thiruvallur Milk Producers Cooperative Union Ltd.,
Kakkalur – 602 003,
Thiruvallur District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Certiorari calling for the records in connection with the impugned proceeding issued under Na.Ka.No.9496/tho.u/2023 dated 16.12.2023.

For Petitioner : Mr.T.Ramkumar

*For Respondent 2 : Ms.Yamuna Devi,
Special Government Pleader*

*For Respondent 1 : Mr.V.Nanmaran,
Additional Government Pleader*



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ORDER

The writ petition has been filed in the nature of certiorari seeking records relating to the notice in Na.Ka.No.9496/Tho.u/2023 dated 16.12.2023 and to quash the same.

2. The second respondent had invited applications for filling up of various posts on regular basis by employment notification advertisement No.8704/Admin/2020 dated 06.11.2020. The petitioner has got previous experience and educational qualification for the post of Extension Officer Grade-II. Since he was eligible for the post, he applied for the post. He also passed the written examination. He was called for interview. Thereafter, an order of appointment was issued.

3. It is contended by the learned counsel for the petitioner that an enquiry was also conducted under Section 81 and re-enquiry had been directed under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983. It is therefore, contended that re-enquiry is not permissible.

4. However, it is to be noted that an enquiry under Section 81 is only a



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fact finding enquiry and there is no prohibition for conducting re-enquiry for the facts particularly with respect to appointment and with respect to reserved post and when persons who is not eligible and had been appointed for the post. As a fact finding authority, the respondents have every right to re-examine every issue.

5. I do not find any infirmity in the show cause notice issued. The petitioner must attend the enquiry once again and the respondents may examine that aspect by conducting the enquiry.

6. The learned counsel for the petitioner has forwarded a copy of the order passed in WP(MD).No14859 of 2014 dated 03.01.2018, wherein a learned Single judge of this Court had extracted Section 81(5) of the Tamil Nadu Cooperative Societies Act, 1983 and held that when the enquiry had been conducted, then another enquiry cannot be conducted. There is no bar under the provision that the second enquiry cannot be conducted. This is only an interpretation given when there is an examination of a fact whether the petitioner is eligible to be appointed to a reserved post when the petitioner is not eligible, then certainly, an enquiry has to be conducted. It is also seen that the writ petition was preferred by the Society and not by the individual as in this



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7. Time is granted to give explanation till 07.03.2025. Thereafter, the respondents may conduct an enquiry adhering to the principles of natural justice by affording opportunity to the petitioner herein and also examining his representations. Till the final orders are passed, the petitioner's service is protected. Thereafter, the respondents may pass orders in accordance with the findings arrived at during the course of enquiry.

8. This writ petition is disposed of, with the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

12.02.2025

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Index : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No



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To

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C.V.KARTHIKEYAN, J.

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