

WP(MD)No.11394 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 24.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.11394 of 2019

The Administrator,
Q-837, Muhavoor Primary Agricultural
Co-operative Credit Society Limited,
Muhavoor, Rajapalayam Taluk,
Virudhunagar District.
(Petitioner is substituted vide order dated 05.08.2025
in W.M.P.(MD)No.16543/25 in W.M.P.(MD)No.15076/25
in W.P.(MD)No.11394/2019) ... Petitioner

versus

1. The Appellate Authority cum
Deputy Commissioner of Labour,
Appellate Tribunal for Tamil Nadu
Shops & Establishments Act,
Madurai.

2. S.Sundaravelu ... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for the issuance of a Writ of Certiorari, to call for the records
pertaining to the impugned order in Case No.TNSE 12/2016 dated
11.01.2019 issued by the 2nd respondent and quash the same as illegal.

For Petitioner : Mr.D.Shanmugaraja Sethupathi



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WP(MD)No.11394 of 2019

For R1 : Mr.C.Venkatesh Kumar,
Special Government Pleader
For R2 : Mr.T.Ravichandran

ORDER

This writ petition has been filed by the Society as against the order passed by the first respondent/Authority under the Tamil Nadu Shops & Establishments Act, 1947, passed in TNSE No.12 of 2016 dated 11.01.2019.

2. The second respondent, the then Secretary in-charge of the Society was terminated from service on 14.10.2016 on the ground that he has disbursed the cotton crop loan to 37 persons, without obtaining any certificate from the Village Administrative Officer. As against the order of termination dated 14.10.2016, the second respondent has filed an appeal before the first respondent/the Authority under the Tamil Nadu Shops & Establishment Act, 1947 in TNSE 12/2016. However, there was no representation on the side of the petitioner Society. Therefore, an *ex parte* order was passed setting aside the order of termination passed by the petitioner Society, by order dated 11.01.2019. Aggrieved over the same, the petitioner Society has filed this writ petition in the year 2019. Unfortunately, even before this Court, there was no representation for the petitioner Society on 07.04.2025 and 08.04.2025. Therefore, this Court, by



WP(MD)No.11394 of 2019

order dated 08.04.2025, dismissed this writ petition for default. In the meantime, the second respondent has filed another writ petition before this Court in W.P.(MD)No.11654 of 2019 seeking a Writ of Mandamus for implementing the order of the first respondent passed in TNSE No.12 of 2016 dated 11.01.2019. The other writ petition was also tagged with this writ petition. Therefore, this Court, while dismissing the writ petition filed by the petitioner Society in W.P.(MD)No.11394 of 2019, has allowed the writ petition in W.P.(MD)No.11654 of 2019, directing the Management to reinstate the second respondent into service as per the order of the first respondent passed in TNSE No.12 of 2016 dated 11.01.2019.

3. The petitioner Society has filed a petition in W.M.P.(MD)No.15076 of 2025 for restoration of the writ petition in W.P.(MD)No.11394 of 2019. Considering the reasons assigned therein, this Court, by order dated 02.09.2025, allowed the petition and restored the writ petition in W.P.(MD)No.11394 of 2019. Therefore, the writ petition in W.P.(MD)No.11394 of 2019 is now listed for final hearing.

4. The learned counsel appearing for the petitioner Society submits that the second respondent, the Secretary in-charge, has disbursed the cotton



WP(MD)No.11394 of 2019

crop loan to 37 persons, without obtaining the approval of the Board of Directors and without following the guidelines for granting loans.

According to him, there were no cotton crops in the village during the relevant period. However, the loan has been disbursed to 37 persons for raising cotton crops. According to the learned counsel, the petitioner Society has also filed a counter affidavit before the first respondent. However, the learned counsel for the petitioner Society failed to appear before the first respondent on that day, when the appeal was taken up for final disposal. However, the first respondent, without considering the objections raised by the petitioner Society in the counter affidavit, has passed an *ex parte* order. Challenging the same, the petitioner Society has filed this writ petition. Unfortunately, the petitioner Society failed to prosecute the writ petition, when it was taken up for hearing on 07.04.2025 and 08.04.2025 and therefore, this writ petition was dismissed for default. However, this Court, by its order dated 08.04.2025, has disposed of the other writ petition filed by the second respondent in W.P.(MD)No.11654 of 2019, directing the petitioner Society to implement the order of the first respondent dated 11.01.2019 passed in T.N.S.E.No.12 of 2016. The learned counsel for the petitioner further submits that as against the order passed by this Court in W.P.(MD)No.11654 of 2019, they have also filed a review petition before



WP(MD)No.11394 of 2019

this Court in Rev.Aplw.(MD)SR.No.48519 of 2025 with a delay and in the delay petition, notice has also been ordered by this Court.

5. The learned counsel for the petitioner Society further submits that the second respondent has committed a grave error by granting loans to the tune of Rs.17 lakhs to ineligible farmers, who have not raised any crop during the relevant period and these loans have also been waived by the Government. Therefore, they have rightly dismissed the second respondent. When the petitioner Society filed a counter affidavit before the first respondent, the first respondent ought to have considered the objections raised by the petitioner Society in the counter affidavit and ought not to have allowed the appeal filed by the second respondent without considering the counter affidavit on record. The learned counsel for the petitioner also admitted that it is a grave mistake committed by the counsel for the petitioner Society before the first respondent and also before this Court, for which, the petitioner Society is prepared to abide by any condition imposed by this Court.

6. The learned counsel for the second respondent submits that the first respondent has allowed the appeal filed by the second respondent even in



WP(MD)No.11394 of 2019

the year 2019. However, by filing this writ petition, the petitioner Society has not implemented the order of the first respondent and even after the order of this Court passed in W.P.(MD)No.11654 of 2019 dated 08.04.2025. He further submits that the second respondent was dismissed from service on vague grounds. He has also disputed the contention of the learned counsel for the petitioner Society that the loans were disbursed without obtaining the approval of the Board of Directors and submits that approval has been granted.

7. This Court considered the rival submissions made.

8. Admittedly, the order passed by the first respondent is an *ex parte* order. The petitioner Society claims that they have filed a counter affidavit before the first respondent and without considering the counter affidavit which was available on record on that relevant point of time, the first respondent has allowed the appeal filed by the second respondent as *ex parte*. Further, this writ petition was also allowed to be dismissed for default on 08.04.2025. Therefore, the conduct of the petitioner Society in not conducting the case properly cannot be appreciated. At the same time, this Court, by considering the fact that the order passed by the first

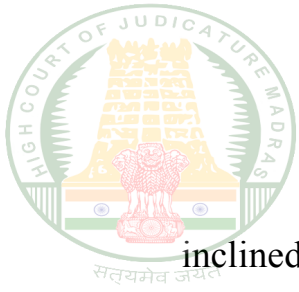


WP(MD)No.11394 of 2019

respondent is an *ex parte* order and the petitioner Society is having some case before the first respondent, is inclined to allow this writ petition by setting aside the *ex parte* order passed by the first respondent and to remand the matter to the first respondent for fresh consideration.

9. This Court, while dismissing this writ petition on 08.04.2025, has also passed an order in the other writ petition filed by the second respondent in W.P.(MD)No.11654 of 2019, directing the petitioner Society to implement the order of the first respondent. As against that order, the petitioner Society has also filed a review application and the review application has also been entertained by this Court. However, the review application could not be listed.

10. Considering the fact that the order in W.P.(MD)No.11654 of 2019 has been passed as a consequential to the order passed in W.P.(MD)No. 11394 of 2019, this Court is inclined to allow the writ petition and to remand the matter for fresh consideration by the first respondent Authority. However, considering the conduct of the petitioner Society that they have not prosecuted the case properly before the first respondent and also before this Court and caused inconvenience to the second respondent, this Court is



WP(MD)No.11394 of 2019

inclined to allow this writ petition with cost of Rs.20,000/-.

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11. Accordingly, this writ petition is allowed with cost of Rs.20,000/- (Rupees twenty thousand only) which is payable by the petitioner Society to the second respondent within a period of two weeks from the date of receipt of a copy of this order. The order passed by the first respondent in Case No.TNSE 12/2016 dated 11.01.2019 is hereby set aside and the matter is remanded back to the first respondent for fresh consideration. No costs.

24.09.2025

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

1. The Appellate Authority cum
Deputy Commissioner of Labour,
Appellate Tribunal for Tamil Nadu
Shops & Establishments Act,
Madurai.



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WP(MD)No.11394 of 2019

B.PUGALENDHI,J.

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WP(MD)No.11394 of 2019

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