

09.02.2026.
Item No. 33.
Court No. 13
ap/AP

M.A.T. No. 399 of 2025
With
I.A. No. CAN 1 of 2025

**DVC Employees Co-operative Stores & Canteen
Limited
Versus
Damodar Valley Corporation & Ors.**

Mr. Tirthankar Dey,
Ms. Ria Naskar.

...For the appellants.

Ms. Senjuti Sengupta,
Mr. Rananesh Guha Thakurta.

...For the respondent no.3.

1. The appellant/Co-operative Society challenged an order dated 7th February, 2025 passed by a learned Single Judge of this Court in W.P.A. 3776 of 2024.
2. By the said order, the learned Single Judge set aside the order of termination of service against the respondent/writ petitioner dated 17th January, 2024.
3. The facts relevant to the instant case are that the respondent/writ petitioner was alleged to have committed various acts of omission and commission amounting to misconduct and a disciplinary proceeding was proposed against him by a show-cause notice. The said show-cause notice referred to several complaints and a joint petition submitted by the several employees of DVC Employees Co-operative Stores and Canteen Limited.

4. In reply thereto, the petitioner by a letter dated 5th December, 2023 stated that he did not understand what was the charge against him. By a letter dated 11th December, 2023, the respondent/writ petitioner was suspended from service and was ordered to receive subsistence grant during the period of suspension in terms of Rule 5(28) of the IBID (34) of West Bengal Service Rules, 1980 (Part-I).

5. However, by a letter dated 17th January, 2024 alleging that the petitioner had committed various acts of omission and commission, inter alia, attacking female employees of the DVC Employees Co-operative Stores and Canteen Limited and molestation of female employees of DVC Employees Co-operative Stores and Canteen Limited (complaint was lodged with the Manicktala Police Station) and acts of snatching the attendance register and putting the signatures therein, the service of the appellant with the Society was terminated.

6. The learned Single Judge of this Court relying upon a decision of the Hon'ble Supreme Court of India in the case of ***Gayatri De - Vs. - Mousumi Cooperative Housing Society*** reported in **(2004) 5 Supreme Court Cases 90** found that the writ petitioner was entitled to be heard before being condemned. It is also found that the writ petition was

maintainable against the Society in view of the fact that the Society was being run under the Special Officer appointed by the Co-operative Department of the State of West Bengal. By the time the final order was passed and a regular Board had taken over the Society after election.

7. The learned Single Judge of this Court also found that the principles of natural justice were not followed against the writ petitioner, who was employed for 28 years without interruption as a “Boy” in the Canteen of the respondents. The learned Single Judge of this Court further found that the termination of the petitioner simplicitor without any enquiry and an opportunity of hearing was bad in law and the order of termination was set aside.

8. The Society was directed to reinstate the petitioner with 25% back wages. The disciplinary proceedings against the petitioner was quashed and set aside against the writ petitioner.

9. It is now well settled that a writ petition is maintainable against a cooperative society since such society is a creature of statute, in the instant case the WBCS Act of 2006.

10. What stands strikingly clear to this Court that the appellant/canteen itself applied the West Bengal

Service Rules of 1980 against the writ petitioner/respondent and suspended him from service. The writ petitioner was, therefore, treated as a regular employee of the society. Non-compliance of the statutory rigmarole of a regular disciplinary proceedings i.e. issuance of charge sheet, receipt of reply; appointment of enquiry officer; leading of evidence; preparation of enquiry report and service of the same on the writ petitioner; receipt of representation of the writ petitioner against the enquiry report and thereafter final order by the disciplinary authority, are the basic ingredients and procedures to be followed by the society before imposition of a final order of punishment.

11. There are certain service rules which prescribed for dispensation of an enquiry in certain situations. Such situations are where it is no longer practical or possible to hold a formal domestic enquiry. Even such dispensation is also required to be informed with sufficient reasons for not holding a disciplinary enquiry against a permanent employee.

12. The society does not appear to have followed any of the aforesaid procedure. Having themselves admitted that the writ petitioner was guided by the West Bengal Service Rules of 1980 the summary order of dismissal without following any of the principles of

natural justice or at least furnishing the writ petitioner employee with the charges against him and the grounds therefor would invariably vitiate the order of termination of service.

13. For the reasons stated hereinabove the impugned order calls for no interference. However, this Court permits the society to hold a regular departmental enquiry against the writ petitioner, inter alia, by issuance of charge sheet and following the procedure prescribed under the West Bengal Service Rules of 1980. Strict adherence to the principles of natural justice, ingredients whereof have been briefly indicated hereinabove, must be followed. The order directing re-instatement of the writ petitioner shall be followed by automatic revival of suspension of the writ petitioner.

14. If disciplinary proceedings are initiated by issuance of formal charge sheet against the writ petitioner, it is expected that the same is concluded within a period of four months from the date of communication of a copy of this Court.

15. The impugned order to the extent that it has provided for 25 percent of wages ordinarily payable to the writ petitioner to be paid must be complied with by the appellant society.

16. With the aforesaid observations, MAT 399 of 2025 is disposed of. Consequently, CAN 1 of 2025 is also, thus, disposed of.

17. There shall be no order as to costs.

18. All parties shall act on the server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)