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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02-11-2026

CORAM

THE HON'BLE MR. JUSTICE B.PUGALENDHI

WP(MD) No. 19293 of 2025

CNR:{HCMD010819432025}

Case QR

and

WMP(MD) Nos.14814, 14815 & 23521 of 2025

T.K.N.Saravanan,
Clerk,
DD 496, K.C.Pattai,
Primary Agricultural Cooperative Society,
Kodaikanal Taluk,
Dindigul District.

..Petitioner

Vs

1. The Joint Registrar of Cooperative Societies,
   O/o. The Joint Registrar of Cooperative Societies,
   Collector Office (PO),
   Dindigul Region,
   Dindigul.

2. The Deputy Registrar of Cooperative Societies,
   O/o. The Deputy Registrar of Cooperative Societies,
   11/223, Raja Nagar,
   Lakshmi Nagar Extension,
   Palani, Dindigul District.

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3. The Administrator,
DD496/K.C. Patti, Primary Agricultural Co-Operative Credit Society,
K.C.Patti post,
Perumalpatti via,
Kodaikanal Taluk,
Dindigul District.

..Respondents

PRAYER: S-2. Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the Impugned order of the 3rd Respondent vide his impugned proceedings Nil dated 30.06.2025 and quash the same as illegal and consequently direct the Respondents to disburse the retirement benefits of the petitioner by treating him as retired on 30.06.2025 within the time stipulated by this Honble Court.

For Petitioner :Mr.H. Mohammed Imran
For Respondents :Mr.M.Mahaboob Athiff
Special Government Pleader

O R D E R

The petitioner is an employee of DD496/K.C. Patti, Primary Agricultural Co-Operative Credit Society, Dindigul. He was

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placed under suspension on certain irregularities, on 30.06.2025 and he was not permitted to retire from service. Aggrieved over the same, the petitioner has approached this Court.

2.The learned Special Government Pleader appearing for the respondents raises a preliminary objection to the maintainability of the writ petition, relying on the decision of the Hon'ble larger Bench of this Court in ***K.Marappan Vs. the Deputy Registrar of Co-operative Societies, Namakkal Circle, Namakkal and another,*** reported in ***2006 (4) CTC 689.*** He further submits that the petitioner, an employee of the Co-operative Society has been placed under suspension as per the Bye-law of the Society and as such, the service conditions of the employees of the Society are also governed by its Bye-law. According to the learned Special Government Pleader, the petitioner's entitlement to gratuity arises under the Society's Bye-law and that any grievance with regard to violation of Bye-law must be pursued through the statutory remedy, under Section 153 of the

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Tamil Nadu Co-operative Societies Act, before the Joint Registrar of Co-operatives and not before this Court. The relevant portion from the *Marappan's case*, relied on by the learned Special Government Pleader is extracted as under:-

> *'(vi) The bye-laws made by a Co-operative Society registered under the Tamil Nadu Co-operative Societies Act, 1983 do not have the force of law. Hence, where a Society cannot be characterised as a 'State', the service conditions of its employees governed by its bye-laws cannot be enforced through a writ petition'.*

3.The learned counsel appearing for the petitioner by referring to Section 79(2)(c) of the Tamil Nadu Cooperative Societies Act, 1983 contends that the gratuity amount cannot be attached or subjected to any other process of a Court or other authority. The learned counsel has also relied on the judgment of the Hon'ble Division Bench of this Court in W.A.No. 234 of 2020, dated 12.10.2020 and submits that the Division Bench has distinguished the claim for gratuity, which has been guaranteed

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under Byelaw and Statute under Section 79 of the Tamil Nadu Co-operative Societies Act and held that, where a statutory violation is established, this Court may exercise its jurisdiction under Article 226 of the Constitution of India. The Division Bench in the above said Judgment has passed an order as under:-

> *8.In order to resolve this preliminary question of maintainability of the writ petition, it would be appropriate to extract paragraph 21 of the Full Bench decision in K.Marappan's case (supra), which is gainfully reproduced hereinunder:-*
>
> > *"21. From the above discussion, the following propositions emerge:*
> >
> > *i. If a particular co-operative society can be characterised as a 'State' within the meaning of Article 12 of the Constitution (applying the tests evolved by the Supreme Court in that behalf), it would also be 'an authority' within the meaning and for the purpose of Article 226 of the Constitution. In such a situation, an order passed by a society in violation of the bye-laws can be corrected by way of Writ Petition;*
> >
> > *ii. Applying the tests in Ajay Hasia it is held that a cooperative society carrying on banking business cannot be termed as an instrumentality of the State within the meaning of Article 12 of the Constitution;*

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iii. Even if a society cannot be characterised as a 'State' within the meaning of Article 12 of the Constitution, a Writ would lie against it to enforce a statutory public duty cast upon the society. In such a case, it is unnecessary to go into the question whether the society is being treated as a 'person' or 'an authority' within the meaning of Article 226 of the Constitution and what is material is the nature of the statutory duty placed upon it and the Court will enforce such statutory public duty. Although it is not easy to define what a public function or public duty is, it can reasonably said that such functions are similar to or closely related to those performable by the State in its sovereign capacity.

iv. A society, which is not a 'State' would not normally be amenable to the writ jurisdiction under Article 226 of the Constitution, but in certain circumstances, a writ may issue to such private bodies or persons as there may be statutory provisions which need to be complied with by all concerned including societies. If they violate such statutory provisions a writ would be issued for compliance of those provisions.

v.Where a Special Officer is appointed in respect of a Co-operative Society, which cannot be characterised as a 'State' a writ would lie when the case falls under Clauses (iii) (iv) above.

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vi. The bye-laws made by a co-operative society registered under the Tamil Nadu Co-operative Societies Act, 1983 do not have the force of law. Hence, where a society cannot be characterised as a 'State', the service conditions of its employees governed by its bye-laws cannot be enforced through a Writ Petition.

vii. In the absence of special circumstances, the Court will not ordinarily exercise power under Article 226 of the Constitution of India when the Act provides for an alternative remedy

viii.The decision in M. Thanikkachalam v. Madhuranthagam Agricultural Co-operative Society, 2000 (4) CTC 556, is no longer good law, in view of the decision of the SevenJudge Bench of the Supreme Court in Pradeep Kumar Biswas case and the other decisions referred to here before."

9.On a perusal of Clause (iv) of Para 21 as quoted above, it is evident that a writ petition has been held to be maintainable if a complaint is made with regard to violation of statutory provisions or for compliance of such provisions. On the other hand, Clause (vi) thereof indicates that the service conditions of employees that are governed by bye-laws cannot be enforced through a writ petition.

10.Having compared and assessed the rival submissions, we find that the respondent petitioner had come up before this Court for the

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enforcement of his rights which stand protected under Sections 78 and 79 through a Statute, namely, The Tamilnadu Co-operative Societies Act, 1983. The said provisions are reproduced hereinunder:- "

> *'78. Provident Fund.- (1) A registered society not being an establishment to which the Employees' Provident Funds and Miscellaneous Provision Act, 1952 (Central Act XIX of 1952) applies, may establish a provident fund for the benefit of its employees to which shall be credited all contributions made by the employees and the society in accordance with the by-laws.*
>
> *(2) A provident fund established by a registered society under sub-section (1) shall be invested in the financing bank, but shall not -*
>
> *(a) be used in the business of the society;*
>
> *(b) form part of the assets of the society;*
>
> *(c) be liable to attachment or be subject to any other process of any court of other authority.*

79. Gratuity Fund.- (1) A registered society not being an establishment to which the Payment of Gratuity Act. 1972 (Central Act 39 of 1972) applies, may provide by its by-laws for payment of gratuity to the employees at such rates and on such conditions as may be specified in the by-laws and such society may establish a gratuity fund or make other arrangements for the purpose.

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(2) A gratuity fund, if any, established by a registered society under sub-section (1) shall be invested in the financing bank, but shall not-

(a) be used in the business of the society;

(b) form part of the assets of the society;

(c) be liable to attachment or be subject to any other proves of any court or other authority."

11.The order that was impugned in the writ petition was passed by the Deputy Registrar calling upon the Society not to permit the respondent petitioner to retire from service, the consequence whereof is that the respondent petitioner will not be able to receive his benefits including Provident Fund and Gratuity that are statutorily controlled by Sections 78 and 79 of the 1983 Act.

12.In our considered opinion, this part of the service condition of the respondent petitioner being subject to a statutory provision, is such a service condition which is governed by a Statute and therefore, paragraph 21 (iv) of the Five Judges Full Bench judgment in the case of K.Marappan would directly apply on the facts of the present case. This is not a case where the bye-laws of the Society or the service conditions contained therein are being only sought to be enforced. The relief claimed in the writ petition is squarely on the above count and therefore, the respondent petitioner was entitled to maintain a writ petition with regard to his claim of Provident Fund and Gratuity, which is governed by the provisions of Sections 78 and 79 of the 1983 Act aforesaid'

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The learned counsel further submits that the above said decision has been followed by learned Single Judges of this Court in various occasions.

4. In reply, the learned Special Government Pleader by relying upon the subsequent judgment of the Hon'ble Division Bench in W.A. No. 3513 of 2023, dated 21.09.2026 submits that the Division Bench took note of the order of the Division Bench of this Court in W.A. No. 234 of 2020, dated 12.10.2020, in the light of the decision of the larger Bench of this Court in *Marappan's case* and held as under:-

> *17. In the context of the present case, the direction in Clause (vi) to Para 50 of the judgment in Marappan's case would squarely apply. The larger Bench in unequivocal terms reiterated that the service conditions of the employees of the cooperative society are governed under its byelaws, which are approved by the Registrar of Cooperative Societies under the provisions of the Tamil Nadu Cooperative Societies Act. Once the byelaws relating to the service conditions are approved,*

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then no writ would lie to redress the service related grievance of an employee under Article 226 of the Constitution of India.

…

22. Regarding exhausting of alternative remedy contemplated under the Statute, the Apex Court emphasises that entertaining a writ petition and adjudication of disputed facts are not desirable, which may result in causing prejudice to either of the parties. The disputed facts are to be adjudicated based on the documents in original and evidences to be produced. The High Court in exercise of the powers of judicial review under Article 226 of the Constitution of India cannot conduct a roving enquiry, merely based on the affidavit or selected copies of documents. Such disputed facts cannot be adjudicated, as there is likelihood of causing miscarriage of justice in the event of undertaking any such adjudication. This exactly is the reason why the Constitutional Courts have time and again reiterated that an aggrieved person, at the first instance, has to exhaust the alternative remedy contemplated under the Statute. The factual finding made by the original authority and the appellate / revisional authority under the Statute are of greater assistance to the High Court for the purpose of exercise of judicial review in an effective manner.'

5. This Court has considered the rival submissions made and also perused the materials placed on record.

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6. The petitioner, a suspended and retired employee of the Co-operative Society has approached this Court that he was not allowed to retire from service and the terminal benefits have not been settled to him. The petitioner claims that as per Section 79(2)(c) of the Tamil Nadu Cooperative Societies Act, 1983, the gratuity amount of the Co-operative Society's employee cannot be attached or subjected to any other process of a Court or other authority. To substantiate his contention, the petitioner has relied on the judgment of the Hon'ble Division Bench of this Court of this Court in W.A.No.234 of 2020, dated 12.10.2020.

7. Section 79 of the Tamil Nadu Co-operative Societies Act deals with the gratuity amount of Co-operative Employee, which is as under:-

> *79. Gratuity Fund (1) A registered society not being an establishment to which the Payment of Gratuity Act, 1972 (Central Act 39 of 1972) applies, may provide in its by-laws for*

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payment of gratuity to the employees at such rates and on such conditions as may be specified in the by-laws and such society may establish a Gratuity Fund or make other arrangements for the purpose.

(2) A Gratuity Fund, if any, established by a registered society under sub - section (1) shall be invested in the financing bank, but shall not (a) be used in the business of the society; (b) form part of the assets of the society; (c) be liable to attachment or be subject to any other process of any Court or other authority.

8. On the side of the respondents, it is claimed that any grievance with regard to violation of Bye-law must be pursued through the statutory remedy under Section 153 of the Tamil Nadu Co-operative Societies Act, before the Joint Registrar of Co-operatives, for which, they have relied on the judgment of the Honourable larger Bench of this Court in ***K.Marappan Vs. the Deputy Registrar of Co-operative Societies, Namakkal Circle, Namakkal and another,*** reported in ***2006 (4) CTC 689*** and the latest Judgment of the Hon'ble Division Bench of this Court ***in W.A. No.***

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3513 of 2023, dated 21.09.2026.

9. No doubt, the gratuity amount of an employee of the Co-operative Society is not governed under the Payment of Gratuity Act and it is as per the Byelaw of the Society with certain conditions. Moreover, Section 79 of the Tamil Nadu Co-operative Society does not prescribe the mode of payment of the gratuity amount to the employees of Co-operative Society. It stipulates guidelines for utilising the amount, which were recovered from the employees towards gratuity. However, Section 79(2)(c) stipulates a condition that it would not be liable for attachment or to any other process of a Court or other authority. Section 79(1) stipulates that the payment of gratuity of the employees is on such condition as may be specified by the Byelaw.

10. In view of the above, this Court is not inclined to entertain this writ petition, in the light of the Judgment of the

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Honourable larger Bench in ***Marappan's case*** and the recent Judgment of the Division Bench of this Court in ***W.A.No. 3513 of 2023, dated 21.09.2026.*** This writ petition is disposed of with the following directions:-

i. The petitioner shall pursue the statutory remedy under Section 153 of the Tamil Nadu Co-operative Societies, 1983, before the competent Joint Registrar.

ii. If the petitioner files an application seeking payment of gratuity, the Joint Registrar concerned shall consider and decide it, in the light of Section 79 of the Act, within three months from the date of its filing.

There shall be no order as to costs. Consequently, connected Miscellaneous petitions are closed.

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Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
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To

1. The Joint Registrar of Cooperative Societies
   O/o. The Joint Registrar of Cooperative Societies
   Collector Office (PO)
   Dindigul Region
   Dindigul

2. The Deputy Registrar of Cooperative Societies
   O/o. The Deputy Registrar of Cooperative Societies
   11/223, Raja Nagar
   Lakshmi Nagar Extension
   Palani, Dindigul District

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B.PUGALENDHI, J.

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Order made in
WP(MD) No. 19293 of 2025

02.11.2026

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