

In the High Court of Judicature at Madras

Dated: 31/10/2003

Coram

The Hon'ble Mr. Justice P. SATHASIVAM

Writ Petition No.28820 of 2003

and

WPMP.No.35203 of 2003

1. M. Kalidas

2. R. Gnanasekaran .. Petitioners

-Vs-

1. The Registrar of Co.operative  
Societies, NVN Maligai  
Kilpauk, Chennai.

2. The Joint Registrar of Co.operative  
Societies, Nagapattinam.

3. Deputy Registrar of Co.operative  
Societies, Myiladuthurai.

4. The Special Officer  
Therizhandur Primary Agricultural  
Co.op. Bank, Therizhandur Post  
Nagapattinam District.

5. The Enquiry Officer CSR  
Therizhandur Primary Agricultural  
Co.op. Bank, Therizhandur Post  
Nagapattinam District. .. Respondents

Petition filed under Article 226 of the Constitution of India  
praying for issuance of writ of certiorari as stated therein.

For petitioners : Mrs. Aparna

For respondents : Mrs. G. Kavitha  
Government Advocate for R.1 to 3

:ORDER

By consent of both the parties, writ petition itself is taken  
up for disposal.

2. The petitioners challenge the order of suspension issued  
by the 4th respondent dated 29.09.2003.

3. Heard the learned counsel for the petitioners as well as learned Government Advocate for respondents 1 to 3.

4. After taking me through the impugned order of suspension, the learned counsel for the petitioners has raised the following contentions:

(i) First of all, the 4th respondent is not the competent Officer to pass the impugned order; and

(ii) In the absence of specific period, i.e., suspension from such date and for such period and without specification of the same, the suspension order cannot stand.

5. In the light of Sub-clause (2) of Section 76 of the Tamil Nadu Co-operative Societies Act, 1983 ( in short "the Act"), I am unable to accept the first contention raised by the learned counsel for the petitioners; accordingly, I reject the same.

6. In so far as the second contention is concerned, in the light of Section 76 (1) (b), it is incumbent on the part of the Authority

concerned to specify the period and date while ordering suspension. The following Clause in Section 76 (1) (b) of the Act is relevant, which reads as under.

"76. Suspension of a paid officer or servant of society. -- (1) .....

(a).....

(b).....

the Registrar may direct, where the paid officer or servant is borne on a common cadre of service the competent authority constituted under sub-section (3) of Section 75 and in other case, the registered society under which the paid officer or servant is employed, pending such investigation, trial and disposal of the matter, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him. "

In the light of the above mentioned provision and in the absence of prescribing such date and such period in the impugned order, I am satisfied that the same cannot be sustained. In similar circumstance, R. Balasubramanian,J., in W.P.No.11618 of 2002 dated 19.11.2002, quashed similar order of suspension on the ground that the order does not prescribe the period upto which the petitioner would be under suspension. I am in agreement with the said view.

In the light of what is stated above, the impugned order of suspension of the 4th respondent dated 29.09.2003, is quashed and liberty is given to the respondents / competent authority to proceed afresh in accordance with law, as pointed out above. The writ petition is allowed to this extent.

No costs. Consequently, connected WPMP., is closed.

Index:Yes

Internet:Yes

kh

To

1. The Registrar of Co-operative

Societies, NVN Maligai

Kilpauk, Chennai.

2. The Joint Registrar of Co-operative Societies, Nagapattinam.

3. Deputy Registrar of Co-operative Societies, Myiladuthurai.

4. The Special Officer

Therizhandur Primary Agricultural

Co.op. Bank, Therizhandur Post

Nagapattinam District.

5. The Enquiry Officer CSR

Therizhandur Primary Agricultural

Co.op. Bank, Therizhandur Post

Nagapattinam District.

□