



W.P.Nos.23369 and 25287 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on : 16.12.2021

Pronounced on : 14.05.2022

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.Nos.23369 and 25287 of 2021

and

W.M.P.Nos.24650, 24651, 24653, 26680 and 26681 of 2021

G.Sendrayan

..... Petitioner in both the
writ petitions

-VS-

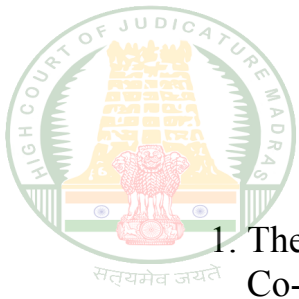
1. The Registrar of Co-operative Societies
170, Periyar E.V.R.High Road,
Kilapuk,
Chennai.

2. The Secretary to Government
Co-operative, Food and Consumer Department,
Secretariat, Chennai - 600 009.

3. The Additional Registrar / Managing Director
Tamil Nadu State Apex Cooperative Bank,
Chennai.

4. Executive Engineer
Building (C&M) Division,
Salem - 636 007.

..... Respondents in
W.P.No.23369 of 2021



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1. The Secretary to Government
Co-operative, Food and Consumer Department,
Secretariat, Chennai - 600 009.

2. The Registrar of Co-operative Societies
170, Periyar E.V.R.High Road,
Kilapuk,
Chennai.

3. The Additional Registrar / Managing Director
Tamil Nadu State Apex Cooperative Bank,
Chennai.

4. Executive Engineer
Building (C&M) Division,
Salem - 636 007.

..... Respondents in
W.P.No.25287 of 2021

Prayer in W.P.No.23369 of 2021 : This Writ petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the first respondent, dated 28.07.2021 in Rc.No.70538/2017/PMCT1, quash the same and consequently, direct the first respondent to permit the petitioner to continue with the construction work of the State Level Training Institute at Salem District.

Prayer in W.P.No.25287 of 2021 : This Writ petition filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, relating to the proceedings of the first respondent dated 09.11.2021 in G.O.(Ms).No.99, Co-operation, Food and Consumer Protection Department, quash the same and consequently direct the first

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respondent to continue with the construction work of the State Level Training Institute at Semmaduvu Village, Manjakuttai Panchayat, Yercaud Taluk, Salem District.

For Petitioner : Mr.P.H.Aravind Pandian, Senior counsel
for Mr.L.P.Shanmugasundaram
in both the writ petitions

For Respondents : Mr.R.Shanmugasundaram
Advocate General
Assisted by
Mr.A.Selvendran, Spl.G.P
in both the writ petitions

COMMON ORDER

Facts relates to W.P.No.23369 of 2020 :

As per the affidavit averments made by the petitioner, the petitioner was elected as a President of the Yercaud Lamp Co-operative Society, Yercaud, Salem District. He filed the writ petition challenging the order passed by the first respondent, i.e., the Registrar of Co-operative Societies, dated 28.07.2021 in Proceedings No.Rc.No.70538/2017/PMCT1, in and by which, the first respondent had directed stoppage of construction works of State Level Co-operative Training Institute at Semmaduvu Village, Manjakuttai Panchayat, Yercaud Taluk, Salem District.



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(ii) According to the petitioner, in order to impart education and training to those employed in Co-operative Department, starting from Junior Assistant to Additional Registrar, the first respondent had recommended the formation of a State Level Co-operative Training Institute. Accordingly, the land situated in S.No.112/5, Semmaduvu village, Manjakuttai panchayat, Yercaud Taluk, Salem District, measuring to an extent of 4.33 acres was allotted by the Government for setting up the said Training Institute. Thereafter the Government of Tamil Nadu, vide G.O.(Ms).No.165, Co-operation, Food and Consumer Protection Department, constituted a Committee with the Additional Registrar, Marketing, Planning and Development as Convener to scrutinise and recommend the infrastructure facilities, which are required for the training programme to be conducted in the proposed State Level Training Institute.

(iii) A meeting was conducted in this regard on 11.02.2019 by the said Committee. Thereafter, the first respondent had sent a proposal to sanction an amount of Rs.1584.57 Lakhs for construction of the Institute.



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(iv) Accepting the said recommendation of the first respondent, the

Government issued G.O.(Ms).No.5, Co-operation, Food and Consumer Protection Department, dated 20.01.2020, granting the administrative sanction of the said amount with 20% contribution from Tamil Nadu State Apex Co-operative Bank, 10% each from Chennai, Kancheepuram, Salem and Coimbatore District Central Co-operative Bank and 1.87% each from the remaining 16 District Central Co-operative Bank except the District Central Co-operative Bank of Sivagangai and Tirunelveli.

(v) Pursuant to the said decision, the said amount was collected and deposited in a separate escrow account opened at the Tamil Nadu State Apex Co-operative Bank.

(vi) Thereafter, it seems that, a revised proposal has been sent by the Registrar of Co-operative Societies, i.e., the first respondent for an expanded institute, for which, the total cost which was estimated to be incurred was Rs.61.80 crores and that was sought for from the Government.



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(vii) The Government also, having considered the said request made

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by the first respondent, i.e., Registrar of Co-operative Societies, had accepted the same and issued G.O.(Ms).No.146, dated 24.12.2020 approving the administrative sanction of a sum of Rs.61.80 Crores, i.e., in addition of Rs.45.96 crores to the earlier sanctioning of Rs.1584.57 lakhs for the proposed State Level Training Institute at Yercaud.

(viii) Subsequently, it seems that, tender was called for and workorder was given. Out of the earlier 15 crore rupees which was collected and deposited in a separate escrow account, the initial construction work was commenced and it went on for sometime. When that being so, the first respondent had issued a communication, dated 28.07.2021 in Rc.No.70538/2017/PMCT1, by and under which, the first respondent directed the Additional Registrar / Managing Director, Tamil Nadu State Apex Co-operative Bank, Chennai, i.e., the third respondent, to direct the fourth respondent, i.e., the Executive Engineer (PWD), Building (C&M) Division, Salem, to stop the construction work of the Institute. It has further been stated in the said order, dated 28.07.2021 that the Executive Engineer,



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Public Works Department, Salem, also can be instructed that, any further expenses in this regard would not be permitted.

(ix) Pursuant to the said communication of the first respondent, dated 28.07.2021, the ongoing construction work at that time was stopped. Felt aggrieved over the said communication, dated 28.07.2021 issued by the first respondent, the petitioner had chosen to file this writ petition with the prayer sought for therein to quash the said communication and permit the authorities to go ahead with the construction of the State Level Training Institute proposed to be established at Yercaud.

(x) When this writ petition came up for hearing on 08.11.2021, after hearing the learned Senior Counsel appearing for the petitioner as well as the learned Special Government Pleader appearing for the respondents, this Court passed the following order :

"In the impugned order dated 28.07.2021, the Registrar of Cooperative Societies sent a communication to the Additional Registrar / Managing Director, Tamil Nadu State Apex



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Cooperative Bank, Chennai to instruct the Executive Engineer, Public Works Department (Buildings), C&M Division, Salem to stop all construction activities of construction of State Level Cooperative Training Institute at Semmavaduvu Village, Manjakuttai Panchayat, Yercaud Taluk, Salem District. It has been further stated in the said order that, the Executive Engineer, Public Works Department, Salem also can be instructed that any further expenses in this regard would not be permitted.

2. Except this, nothing has been stated in the impugned order. Therefore, questioning this order the present writ petition has been filed. Mr.Arvind Pandian, learned Senior Counsel appearing for the petitioner has contended that, the Government already sanctioned Rs.61.80 Crores for construction of such Institute, pursuant to which the construction was going on. While that being so, all of a sudden now the stop construction order has since been issued, which is impugned herein, the reason for taking such a decision at Government level or Department level



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is not known to anyone and that has not been spelt out in the order, and in order to know the reasons and testify the same, the learned Senior Counsel seeks the indulgence of this Court.

3. Considering the aforesaid aspect, this Court also feels that the respondents shall file a status report with concerned documents to establish that a Government level or Department level decision has been taken in this regard, pursuant to which only the stop construction notice or order has been issued through the impugned communication dated 28.07.2021 by the Registrar of Cooperative Societies and the reason for taking such a decision can also be ascertained and a report to that effect shall be filed before this Court during the next date of hearing.

4. Post this matter on 16.11.2021."

(xi) Thereafter when the writ petition came up for hearing on 16.11.2021, the learned Special Government Pleader appearing for the respondents had produced a copy of the Government Order in



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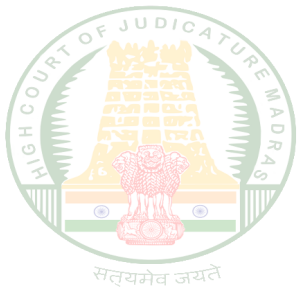
G.O.(Ms).No.99, Co-operation, Food and Consumer Protection Department,

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dated 09.11.2021. On perusal it was found that the Government issued the said G.O, cancelling the earlier Government Order issued, namely G.O.Ms.Nos.146, dated 24.12.2020 of the same Department sanctioning the fund of Rs.61.80 crores for the proposed institute at Yercaud.

(xii) On perusal of the G.O.Ms.No.99 and hearing the learned counsel appearing for both sides, on 16.11.2021, this Court passed the following order :

Pursuant to the direction issued by this Court dated 08.11.2021, when the case is taken up for hearing, Mr.A.Selvendran, learned Government Counsel appearing for the respondents has submitted that, a policy decision had already been taken, pursuant to which, the Government decided to cancel the Government Order i.e., G.O(Ms).No.146 dated 24.12.2020 of the Co-operative Department, in which, the project i.e. Training Institute at Yercaud was sanctioned with administrative as well as financial sanction. In support of the said contention, the learned Government Counsel has produced a



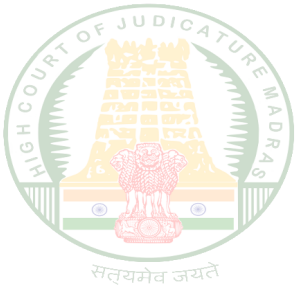
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copy of the present Government Order i.e. G.O(Ms).No.99 Co-operative, Food and Consumer Protection Department, dated 09.11.2021, where, inter alia the following has been stated :

"4. மேற்காணும் அறிவிப்பு தொடர்பாக மேலே முன்றாவதாகப் படிக்கப்பட்ட கடிதத்தில், கூட்டுறவு சங்கங்களின் பதிவாளர், தமிழக கூட்டுறவு இயக்கம் 100 ஆண்டுகள் கடந்த நிலையில் கூட்டுறவு இயக்கத்தினை வலுப்படுத்தும் நோக்கத்துடன் கூட்டுறவு ஆராய்ச்சி உட்பட மேம்படுத்தப்பட்ட சேவைகள் வழங்க ஏதுவாக தேசிய அளவிலான பயிற்சி நிலையம் அமைப்பதன் மூலம் கூட்டுறவுப் பணியாளர்கள் உறுப்பினர்கள் மற்றும் பொதுமக்கள் அனைவரும் பயன்பெறுவர் எனவும் கொடைக்கானல் முக்கியத்துவம் வாய்ந்த மலைப் பிரதேசமாக உள்ளதாலும் தமிழகத்தின் மத்தியப் பகுதியில் உள்ளதாலும் அனைத்து மக்களும் சுலபமாக அணுக இயலும் என்பதாலும் அங்கு 20 ஏக்கர் நிலம் உள்ளதாலும் கூட்டுறவு பயிற்சி மற்றும் ஆராய்ச்சி நிலையம் மிகச்



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சிறப்பாகவும், தொலைநோக்கு
பார்வையுடனும் கூடுதல் வசதியுடன்
அழகிய இயற்கைச் சூழலில்
அமைத்திடலாம் எனவும்
தெரிவித்துள்ளார். மேலும், தமிழ்நாட்டில்
ஏற்கெனவே மாநில அளவிலான
கூட்டுறவு பயிற்சி நிலையங்களாக
சென்னையில் நடேசன் கூட்டுறவு
மேலாண்மை நிலையம் மற்றும்
மதுரையில் கூட்டுறவு மேலாண்மை
நிலையம் செயல்பட்டு வருகிறது. மேலும்
சேலம் மாவட்டத்தில் ஏற்காட்டிற்கு
அருகில் ஏற்கெனவே மாவட்ட அளவில்
நாச்சியப்பா கூட்டுறவு மேலாண்மை
பயிற்சி நிலையம் செயல்பட்டு
வருகிறது. இந்நிலையில்,
கொடைக்கானலில் தேசிய அளவிலான
கூட்டுறவு பயிற்சி நிலையம்
அமைக்கப்படவுள்ளதால், ஏற்காட்டில்
புதிய மாநில அளவிலான பயிற்சி
நிலையம் அமைக்கும் நோக்கம்
நிறைவேற வாய்ப்புகள் குறைவு எனவும்
தெரிவித்துள்ளார். எனவே, ஏற்காட்டில்
அமையவுள்ள மாநில அளவிலான
பயிற்சி நிலையம் அமைப்பதை
கைவிடலாம் எனவும், அதற்காக



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ஒதுக்கப்பட்ட 4.33 ஏக்கர் நிலத்தினை ஏற்காட்டில் உள்ள மலைவாழ் மக்கள் பெரும்பலனோக்கு கூட்டுறவுச் சங்கத்திற்கு (LAMP) வழங்குவதன் மூலம் மலைவாழ் மக்களின் மேம்பாட்டிற்காக பதனிடும் அலகுகள் அமைப்பதற்கும், மலைவாழ் மக்களின் விலை பொருட்களை மதிப்பு கூட்டப்பட்ட (Value Added) பொருட்களாக மாற்றி விற்பனை செய்திட நடவடிக்கைகள் எடுக்க இயலும் இதனால் மலைவாழ் மக்களின் வாழ்வாதாரம் உயர வழிவகுக்கும் எனவும் கூட்டுறவுச் சங்கங்களின் பதிவாளர் தெரிவித்துள்ளார்.

5. மேற்கண்ட காரணங்களால் தேசிய அளவில் கொடைக்கானலில் கூட்டுறவு மேலாண்மை படிப்பு மற்றும் பயிற்சி நிலையம் அமைக்கப்படவுள்ள நிலையில், மாநில அளவிலான பயிற்சி நிலையம் சேலம் மாவட்டம், ஏற்காடு தாலுக்கா, மஞ்சக்குட்டை ஊராட்சி, செம்மடுவு கிராமத்தில் அமைக்க வழங்கப்பட்ட அனுமதியினை ரத்து செய்து ஆணை வழங்கிடுமாறு



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கூட்டுறவுச் சங்கங்களின் பதிவாளர்
அரசைக் கேட்டுக் கொண்டுள்ளார்.

6. மேலே பத்தி 5ல் உள்ள
கூட்டுறவுச் சங்கங்களின் பதிவாளரின்
கருத்துருவினை அரசு கவனமாக
பரிசீலித்து தேசிய அளவில்
கொடைக்கானலில் கூட்டுறவு
மேலாண்மை படிப்பு மற்றும் பயிற்சி
நிலையம் அமைக்கப்படவுள்ள நிலையில்,
ஏற்கெனவே மாநில அளவிலான பயிற்சி
நிலையம் சேலம் மாவட்டம், ஏற்காடு
தாலுக்கா, மஞ்சக்குட்டை ஊராட்சி,
செம்மருவு கிராமத்தில் அமைக்க
அனுமதி வழங்கி வெளியிடப்பட்ட மேலே
இரண்டவதாகப் படிக்கப்பட்ட
அரசாணையினை இரத்து செய்யலாம்
என முடிவு செய்து அரசு அவ்வாறே
ஆணையிடுகிறது.

(ஆளுநரின் ஆணைப்படி)

முகமது நசிமுத்தின்

அரசு கூடுதல் தலைமைச் செயலாளர்

2. Since the Government has taken a decision
to cancel the project at Yercaud by cancelling the
earlier G.O. dated 24.12.2020 as stated supra and



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issued the new G.O. in G.O(Ms).No.99 dated 09.11.2021, this Court feels that, now the focus is shifted on the G.O.(Ms)No.99.

3. Nevertheless, Mr.P.H.Aravind Pandian, learned Senior Counsel appearing for the petitioner submitted that, insofar as the on going project or the project already undertaken by spending huge money is concerned, what is the stage of the construction, how much of money has been spent on it has to be ascertained. For the said purpose, though a direction was given by this Court by earlier order dated 08.11.2021 directing the respondents to file a report to that effect, the said report since has not been filed, that aspect cannot be unearthed. Therefore, the learned Senior Counsel requested the Court to get such report from the respondents for the Court's perusal and further decision.

4. In this regard, the learned Government Counsel appearing for the respondents, on instruction, would submit that, the report, as sought for by earlier order of this Court dated 08.11.2021, is almost made ready and it would be filed next week,



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hence, he seeks accommodation till 24th of this month.

5. Hence, for the said purpose, i.e., for filing the report as sought for by order dated 08.11.2021, post the matter on 24.11.2021. The learned Government Counsel also submits that, the copy of the G.O.(Ms).No.99 dated 09.11.2021 has been served on the learned counsel appearing for the petitioner. The same is hereby recorded.

2. Facts relates to W.P.No.25287 of 2021 :

Since the Government issued G.O.(Ms).No.99, Co-operation, Food and Consumer Protection Department, dated 09.11.2021, which was produced before this Court by the Government side on 16.11.2021 and a copy of which also had been served on the petitioner, the petitioner had chosen to challenge the said G.O.(Ms).No.99 in this writ petition with the prayer sought for therein, i.e., the writ of certiorarified mandamus, to call for the records pertaining to G.O.(Ms).No.99, Co-operation, Food and Consumer Protection Department of the first respondent and quash the same and consequently direct the first respondent to continue with the construction of the State Level Training Institute at Yercaud.



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3. That is how, these two writ petitions have come up before this

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4. Thereafter, on 03.12.2021 when the case came up for hearing, as per the earlier direction issued in this regard, as referred to above, the learned Advocate General had produced the file relating to the impugned Government Order, i.e., G.O.(Ms).No.99, dated 09.11.2021.

5. Having gone through the said records and after hearing the learned counsel appearing for both sides, as there was an issue raised on behalf of the petitioner that, the decision taken by the Government on 25.08.2021 with the announcement in the floor of the Assembly by the Minister concerned to establish a National Level Training Institute for Co-operative Employees at Kodaikanal, since could have been emanated only from the said announcement, dated 25.08.2021, prior to that, if a decision was taken to stop construction of the work of the State Level Institute at Yercaud by the impugned communication dated, 28.07.2021, on what basis such a decision to stop the construction of the work at Yercaud Institute was taken



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has to be ascertained, this Court passed an order on 03.12.2021, which reads

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"The learned Advocate General has produced the file relating to the impugned G.O.Ms.No.99 dated 09.11.2021.

2. However, a point has been raised by the learned senior counsel appearing for the petitioner with regard to the impugned communication in W.P. No. 23369 of 2021 dated 28.07.2021, as some decision might have been taken well prior to the announcement of the Hon'ble Minister in the assembly on 25.08.2021 to have a National Level Cooperative Training Institute in Kodaikanal, and in this regard, in reference column 6 of the communication dated 28.07.2021 of the Registrar of Co-operative Societies, it refers about the Review Meeting of the Hon'ble Chief Minister dated 03.07.2021, if at all any decision was taken to cancel the Yercaud Unit in lieu of the decision taken by the Government to establish a National Level Institute at Kodaikanal, that decision should have been emanated in any other prior meetings where



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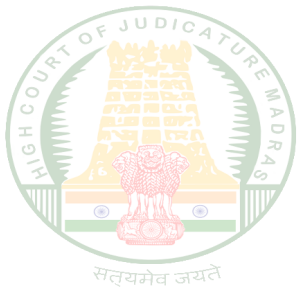


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decision might have been taken, without which, the Registrar of Co-operative Societies could not have issued a letter dated 28.07.2021.

3. Therefore, in this context, he has raised a point that, if the decision to establish a National Level Institute at Kodaikanal has emanated only from the policy announcement of the Hon'ble Minister for Cooperatives in the assembly on 25.08.2021, pursuant to which only the G.O impugned has been issued, of course on the basis of the recommendation of the Registrar of Co-operative Societies to cancel the Yercaud Institute, that decision to cancel the Yercaud Institute ought not to have been taken prior to 25.08.2021. However, the impugned communication in the first Writ Petition was dated 28.07.2021. Therefore, he wants a clarification from the Government side in this regard.

4. Therefore, the learned Advocate General is requested to get instructions in this regard and to produce the relevant file with regard to the earlier decision, especially the decision taken on 03.07.2021 in the Review Meeting of the



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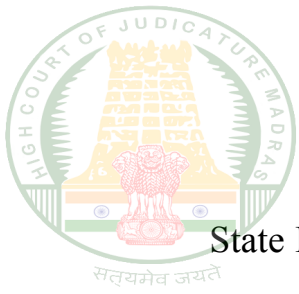
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Chief Minister either to cancel the Yercaud Unit in lieu of establishment of National Level Unit at Kodaikannal or independently, where the decision was taken to cancel the Yercaud Unit.

5. Hence, for the said compliance, the learned Advocate General seeks accommodation till 14.12.2021. Post the matter on 14.12.2021."

6. In response to the said order, when the case is taken up for hearing on 16.12.2021, the learned Advocate General has produced the relevant file of the Registrar of Co-operative Societies, i.e., the first respondent in the first writ petition and second respondent in the second writ petition and having produced the said file, the learned Advocate General concluded his arguments and since the arguments were already heard, this Court reserved the orders on that day.

7. The challenge mainly made in the first writ petition is the communication issued by the Registrar of Co-operative Societies, dated 28.07.2021, under which, the construction work went on at the Yercaud



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State Level Institute was directed to be stopped. During the pendency of the writ petition, since the Government has come forward to issue G.O.(Ms).No.99, dated 09.11.2021, under which, the earlier Government Order, namely G.O.(Ms).No.146, dated 24.12.2020 was cancelled, thereby the administrative sanction as well as the financial sanction for a sum of Rs.61.80 crores for construction of the State Level Training Institute at Yercaud since was cancelled, that Government Order also had been questioned in the second writ petition, i.e., W.P.No.25287 of 2021.

8. Therefore in the circumstances, the issue to be decided in these writ petitions is whether the decision taken by the Government in stopping the construction work at Yercaud Institute and consequently cancel the earlier Government Order giving administrative as well as financial sanction for the said Institute at Yercaud is a policy decision of the Government, if so, whether the said policy decision is justifiable and acceptable within the touchstone of the legal principle already enunciated in this regard, of course within the constitutional framework.



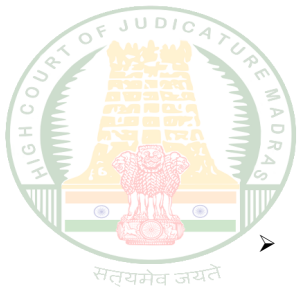
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9. After having gone through the file produced by the respondents as

well as the documents filed by way of typed set of papers by the petitioner,

this Court found the following sequence of events :

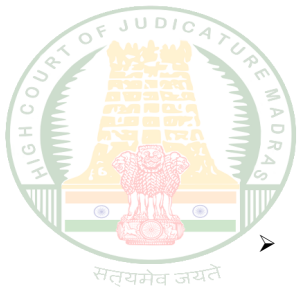
- On 25.06.2018, the Registrar of Co-operative Societies (in short RCS), requested the Secretary to Government to issue an announcement under Rule 110 of the Tamil Nadu State Legislative Assembly Rules announcing the proposal to establish a State Level Co-operative Training Institute at Semmaduvu village, Manjakuttai panchayat, Yercaud Taluk, Salem District and also requested the Government to constitute a committee headed by the Additional Registrar, Tamil Nadu Co-operative Union, to work out the modalities for the proposed institute.
- Thereafter on 22.10.2018, the Government issued a Government Order in G.O.(Ms).No.145, Co-operation, Food and Consumer Protection Department, under which, four member committee was constituted to suggest the modalities and the infrastructure to be created for the proposed Institute.



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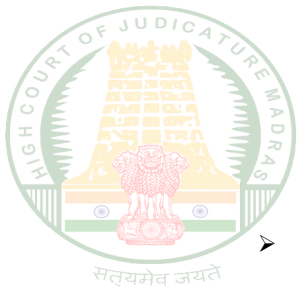
- On 13.12.2018, the Government issued a further Government Order in G.O.(Ms).No.165 of the same Department, under which, a revised committee consisting of seven members had been constituted for the aforesaid purpose.
- Further communication had been sent by RCS to the Government on 13.06.2019 with regard to the details, project report etc., and also to request the Government to announce the establishment of the institute before the Legislative Assembly under Rule 110.
- Thereafter on 20.01.2020, the Government issued G.O.(Ms).No.5 of the same Department, under which, administrative sanction for the financial sources of Rs.1584.57 lakhs to be collected from Co-operative Banks etc., had been allowed by the Government for the purpose of the establishment of the Institute at Yercaud.
- Thereafter, by letter, dated 22.01.2020, the RCS sent a letter to the Additional Registrar / Managing Director, Tamil Nadu Apex Co-operative Bank Ltd., to take further action to execute the Government Order for the establishment and construction of the Institute at Yercaud.



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- Thereafter on 20.03.2020, among various announcement made by the then Chief Minister, the announcement with regard to the establishment of the State Level Co-operative Training Institute at semmaduvu, Salem District for the said amount of Rs.15.85 crores was also announced in the Assembly.
- Further letter on 09.05.2020 was issued by the Registrar of Co-operative Societies to the Additional Registrar / Managing Director of Tamil Nadu State Apex Co-operative Bank to take further action since the establishment of the Institute has already been announced by the Chief Minister in the Assembly under Rule 110.
- Similar letter was issued by the RCS to the Additional Registrar / Managing Director of Tamil Nadu State Apex Co-operative Bank for further action in this regard. Thereafter, the State Government issued another Government Order, i.e., G.O.(Ms).No.146 of the Co-operation, Food and Consumer Protection Department, dated 24.12.2020, under which, the administrative sanction for the finance was enhanced from Rs.15 crores to 61 crores, i.e., Rs.61.80 crores for the proposed Institute at Yercaud.



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- On 12.01.2021, the fourth respondent in the first writ petition, i.e., Executive Engineer (PWD), Building (C&M) Division, Salem, sent a letter to the Managing Director, Tamil Nadu State Apex Co-operative Bank Ltd., that, he has received a sum of Rs.15 crores, which has been credited into the SB Account of Union Bank of India, Salem Main Branch on 31.12.2020 through RTGS, that means that fund can be utilised for the initial construction of the proposed Institute.
- Pursuant to the said initial funding of Rs.15 crores already been sanctioned and credited to the Account of the PWD Department, they have started the construction work. While that being so, on 28.07.2021, the communication has been issued by the Registrar of Co-operative Societies to the Additional Registrar / Managing Director of the Tamil Nadu State Apex Co-operative Bank Ltd., Chennai, to request the fourth respondent, Executive Engineer (PWD), Building (C&M) Division, Salem to stop all the construction activities until further orders. It has further been stated in the said communication that, no further expenses in this regard will be permitted.



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10. When this communication, dated 28.07.2021 was under challenge

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in the first writ petition, Mr.P.H.Arvinth Pandian, learned Senior counsel appearing for the petitioner would contend that, a policy decision had been taken by the State Government to establish a State Level Co-operative Training Institute at Semmaduvu village, Yercaud Taluk, Salem District and after having conceived the plan and giving a shape for the proposed Institute with the initial estimate of Rs.15 crores and odd, the then Government announced the decision in the Tamil Nadu Legislative Assembly under Rule 110. Pursuant to which, in view of the further request made by the RCS, as further funds would be required for the effective establishment of the Institute under the expanded plan, the Government issued G.O, dated 24.12.2020 in G.O.(Ms).No.146, under which, Rs.61.80 crores was sanctioned and administrative sanction in this regard was given.

11. Pursuant to these decisions, a sum of Rs.15 crores already been credited in the PWD account for starting the construction, accordingly, 20% of the construction work was over. While that being so, all of a sudden, on 28.07.2021, this communication which is impugned in the first writ petition



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was issued by the RCS, whereby abruptly the construction work was directed to be stopped.

12. Questioning this stop construction work communication, which is impugned in the first writ petition, the learned Senior counsel would contend that, absolutely no decision yet to be taken at the Government level or at the Department level. Assuming that if any decision is taken at the Department level, that cannot prevail upon the decision taken by the Government, as the proposal for the State Level Institute at Yercaud was a decision taken as a policy decision by the State Government which was announced in the Assembly by the then Chief Minister and pursuant to which, two Government Orders were issued, i.e., G.O.(Ms).No.5 and G.O.(Ms).No.146 referred to above. The initial sanction of Rs.15 crores and odd was subsequently enhanced to Rs.61.80 crores and Rs.15 crores have been deposited or credited, pursuant to which, 20% of the work has already been over. When that being so, this abrupt stoppage of the construction work is an arbitrary decision with colourable exercise of power by the RCS, therefore the said communication will not stand in the legal scrutiny. Hence

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the impugned communication dated 28.07.2021 is liable to be interfered with, the learned Senior counsel for the petitioner contended.

13. In response to the said submission made on behalf of the petitioner, this Court as referred to above, wanted to know from the Government as to whether any policy decision was taken or a decision was taken at the Department level to stop the construction work of the Yercaud Institute and if so, the details of such a decision taken either at the Government level or at the Department level can be placed before the Court.

14. Only pursuant to the said directive issued by this Court, on the Government side, the learned Special Government Pleader has produced a copy of the G.O.(Ms).No.99, Co-operation, Food and Consumer Protection Department, dated 09.11.2021. Under the said Government Order, the earlier G.O.(Ms).No.146 was cancelled, thereby the State Level Training Institute proposed to be established at Yercaud itself was cancelled by the Government. Therefore, it triggered the petitioner to file the second writ petition challenging the said G.O.(Ms).No.99.

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15. In this context, again comprehensively the learned Senior counsel appearing for the petitioner has made further submission stating that, the decision taken by the Government is reflected only in G.O.(Ms).No.99, dated 09.11.2021. However, well prior to the same, that is four months prior to the said decision reflected in the G.O.(Ms).No.99, since the RCS had issued communication, dated 28.07.2021, directing the Executive Engineer, PWD, to stop the construction work of the institute, definitely the said decision, which reflected in the impugned communication, dated 28.07.2021 could not have been taken by the Government and therefore, that kind of abrupt decision taken at the Department level, i.e., RCS level cannot stand in the legal scrutiny as the earlier decision taken to establish the Institute was a decision of the Government, more so, it is a policy decision. Therefore, the impugned communication dated 28.07.2021 will not stand.

16. In order to ascertain this position, this Court wanted the respondents to produce the relevant file, as to when actually the decision was taken by the Government to stop the construction work at Yercaud Institute and the reason for such decision taken and whether such decision was taken at the Department level or Government level.

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17. In response to the same, the learned Advocate General who appeared then on behalf of the respondents had made submissions that, the decision to stop the construction work at the Yercaud Institute was taken at a Review Meeting of the Department concerned conducted by the Chief Minister on 03.07.2021. The learned Advocate General would further contend that, based on the input that was supplied by the Department in the Review Meeting, with regard to the necessity of the State Level Institute, which was proposed to be established at Yercaud, after having found that the said Institute was not required to be established at Yercaud for variety of reasons, it was taken a decision in the said Review Meeting to stop the construction work and that is the reason why the RCS had sent an immediate communication on 28.07.2021 to the Executive Engineer, PWD to stop the construction work.

18. Thereafter, as per the decision taken by the Government under the Leadership of the Chief Minister, the G.O.(Ms).No.99 was issued on 09.11.2021, whereby the earlier administrative sanction or inprincipal sanction for the establishment of the Institute with a cost of Rs.61.80 crores made through G.O.(Ms).No.146 was cancelled.

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19. It is, in this regard, to be noted that, in a related development, on 25.08.2021, the Minister for Co-operative Department made an announcement in the Assembly that, the Government has decided to establish a National Level Co-operative Training Institute at Kodaikanal. When this issue was argued before this Court on 03.12.2021, a ground was raised by the learned Senior Counsel appearing for the petitioner that, if a decision has been taken by the Government to establish a National Level Training Institute for Co-operative Employees at Kodaikanal and that is the only reason, under which, the Government decided to cancel the construction work went on at the State Level Institute at Yercaud, certainly the decision, according to the learned Senior counsel appearing for the petitioner is infirm, because, the establishment of the State Level Institute at Yercaud was a policy decision taken by the Government and if at all a further policy decision is taken by the the present dispensation, which is emanated or announced in the Assembly on 25.08.2021 by the concerned Minister, prior to which, no decision could have been taken by the Department level, i.e., RCS to stop the construction work. Therefore, according to the learned Senior counsel appearing for the petitioner, the



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decision to stop construction of the Yercaud Institute and the consequential Government Order issued in G.O.(Ms).No.99, dated 09.11.2021 is an after thought and that does not emanate from any policy decision taken at the higher level of the Government. Therefore, according to the learned Senior counsel for the petitioner, both the orders impugned, i.e., the order, dated 28.07.2021 which is impugned in the first writ petition and the G.O.(Ms).No.99, dated 09.11.2021, which is impugned in the second writ petition are unlawful and untenable, therefore, they are liable to be quashed and consequential direction has to be given to the respondents to permit the respondents to go ahead with the establishment of the State Level Co-operative Training Institute at Yercaud.

20. After having heard the arguments at length from both sides, this Court, infact wanted to peruse the related file which has already been produced before this Court.

21. On perusal of the file of the Registrar of Co-operative Societies with regard to the present subject matter, among other things, the following



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decision had been taken in the Review Meeting headed by the Chief

WEB CO Minister on 03.07.2021.

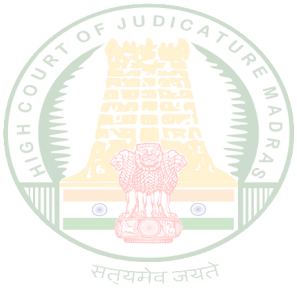
"கடந்த 03.07.2021 அன்று நடைபெற்ற மாண்புமிகு தமிழ்நாடு முதல் அமைச்சர் தலைமையில் நடந்த கூட்டுறவுத் துறையின் முழுமையான ஆய்வுக் கூட்டத்தில் விவாதிக்கப்பட்டவாறு சேலம் மாவட்டம், ஏற்காடு தாலுக்கா, மஞ்சக்கோட்டை பஞ்சாயத்து, செம்மடுவு கிராமத்தில் ரூ.61.80 கோடியில் மாநில அளவிலான பயிற்சி நிலையம் அமைப்பது குறித்து எடுக்கவேண்டிய மேல் நடவடிக்கைகள் குறித்த அலுவலகக் குறிப்பு பின்வருமாறு

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மேற்படி, 03.07.2021 அன்று தமிழ்நாடு முதல் அமைச்சர் தலைமையில் நடைபெற்ற ஆய்வுக் கூட்டத்தில் மேற்குறித்த அரசாணை தலைமைச் செயலாளராலும் படிக்கப்பட்டு, மதிப்பீடுகள் ரூ.15.84 கோடியிலிருந்து ரூ.61.80 கோடிக்கு உயர்த்தப்பட்டுள்ளது என்றும், ஏற்கனவே மாநில அளவிலான இரண்டு பயிற்சி மையங்கள் இருக்கின்றன என்பதாலும், இந்த பயிற்சி நிலையம் ஆரம்பிப்பதில் சில நிர்வாக நடைமுறைகள் சரிவர பின்பற்றப்படவில்லை என்பதாலும் இந்த பயிற்சி நிலையத்திற்காக ஒதுக்கப்பட்ட இடத்தில் புதிய மாநில அளவிலான பயிற்சி நிலையம் கட்டுவதை



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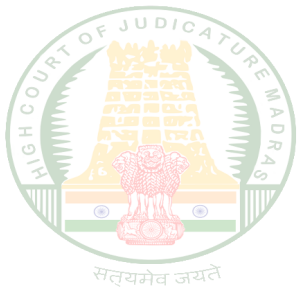


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விடுத்து வேறு விதமான கூட்டுறவுத் துறைக்கு பயன்படும் நடவடிக்கைகளை ஆரம்பிப்பதற்கான சாத்தியக் கூறுகள் குறித்தும், கொடைக்கானலில் தேசிய அளவிலான கூட்டுறவு ஆராய்ச்சி, மேலாண்மை மற்றும் உயர் கல்வி மையம் ஒன்றை ஐ.ஐ.எம்., ஐ.ஐ.டி போல தமிழ்நாட்டிற்கு பெருமை சேர்க்கும் வகையில் அமைக்கலாம் என்றும், இதுகுறித்து கூட்டுறவுத் துறையின் பதிவாளர் ஆராய்ந்து முன்மொழிவு அனுப்புமாறு அறிவுறுத்தப்பட்டது.

அதன் அடிப்படையில் ஏற்காடு தாலுக்காவில் ஆரம்பிக்க உத்தரவிடப்பட்ட பயிற்சி மையம் குறித்து பதிவாளர் அவர்களால் தொடர்புடைய கோப்புகள் அனைத்தும் மேற்படி முதல் அமைச்சரின் ஆய்வுக் கூட்டத்திற்கு முன்பாகவும், அதனைத் தொடர்ந்தும் விரிவாக பரிசீலிக்கப்பட்டது.

இது தொடர்பான கோப்புகளை முதல் அமைச்சரின் ஆய்வுக் கூட்டத்திற்கு முன்னர் நடந்த முன் ஆய்வுக் கூட்டங்களுக்கு முன்பாக பரிசீலித்ததன் அடிப்படையிலும் ஆய்வுக் கூட்டத்தில் தெரிவிக்கப்பட்டதின் அடிப்படையிலும், கூடுதல் விவரங்கள் விவாதிக்கப்பட்டதன் அடிப்படையிலும் தொடர்புடைய கோப்புகள் மீண்டும் ஒருமுறை விரிவாக தொடர்புடைய அலுவலர்களுடன் கலந்தாலோசிக்கப்பட்டு ஆய்வு செய்யப்பட்டன.



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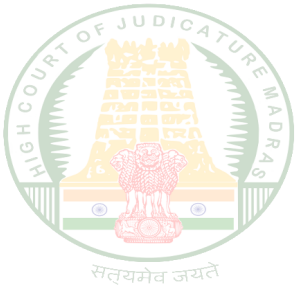


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இந்த நேர்வில் ஆரம்பத்திலிருந்தே கீழ்க்கண்ட சில குளறுபடிகளும், நிர்வாக நடைமுறைகள் சரியாக பின்பற்றாததும் பார்வைக்கு வந்துள்ளன

1. ஏற்காடு சட்டமன்ற தொகுதி உறுப்பினர் திருமதி. கு. சித்திரா எழுப்பிய கேள்வியின் அடிப்படையில் ஏற்காடு தாலுக்கா, மஞ்சக்கோட்டை பஞ்சாயத்து, செம்மருவு கிராமத்தில் புதிய மாநில அளவிலான பயிற்சி மையம் அமைக்கப்படும் என்றும், அதற்காக ரூ.15.84 கோடி ஒதுக்கீடு செய்து, 20.01.2020 தேதியன்று அரசாணை பிறப்பிக்கப்பட்டுள்ளது. ஏற்கனவே, மாநில அளவிலான பயிற்சி மையங்கள் இந்தியாவில் உள்ள அனைத்து மாநில அளவிலான பயிற்சி மையங்கள் உள்ள போது முன்றாவதாக ஒரு மாநில அளவிலான பயிற்சி மையம் என்பது தேவையற்ற நிதிச் சுமையை அரசுக்கு ஏற்படுத்தும் ஒரு செயலாகும் மற்றும் அது தேவையும் அற்றது.

2. இந்த பயிற்சி நிலையம் ஆரம்பிப்பதற்கான அடிப்படை நோக்கமான எந்தெந்த வகை பிரிவினருக்கு அளிக்கலாம் என்பதில் ஆரம்பம் முதலே தெளிவான நிலைப்பாடு இல்லாமல் மாற்றப்பட்டு வந்துள்ளது. இறுதியாக 22.10.2018 அன்று வெளியிடப்பட்ட அரசாணையில் 5 வகையான பயிற்சிகள் அளிக்கப்படும் என குறிப்பிடப்பட்டுள்ளது. இந்த 5 வகையான பயிற்சிகளை அளிப்பதற்கும் ஏற்கனவே



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எஸ்.ஐ.ஆர்.டி மறைமலை நகர், அரசு அலுவலர் பயிற்சி நிலையம் பவானி சாகர், இரண்டு மாநில அளவிலான கூட்டுறவு பயிற்சி மையங்கள், மாவட்ட அளவிலான 22 கூட்டுறவு மேலாண்மை பயிற்சி நிலையங்கள் என உள்ளபோது, இந்த பயிற்சி நிலையம் ஆரம்பிப்பது என்பது அரசுக்கு தேவையற்ற நிதிச் சமையை உருவாக்குவதாக உள்ளது.

3. இந்த பயிற்சி நிலையம் முதலில் ரூ.15.84 கோடிக்கு 08.04.2019 அன்று 58,440 சதுர அடி பரப்பிற்கு வரை படங்கள் மற்றும் மதிப்பீடுகள் ஒரு தனியார் நிறுவனத்தின் மூலம் தயாரிக்கப்பட்டு, அதன் அடிப்படையில் 20.01.2020 அன்று அரசாணை பிறப்பிக்கப்பட்டுள்ளது. அதனைத் தொடர்ந்து, 28.10.2020ல் வேறொரு தனியார் நிறுவனம் 65.638 சதுர அடி பரப்பிற்கு தயாரித்த வரை படங்கள் மற்றும் மதிப்பீடுகள் அடிப்படையில் முதலில் ஒதுக்கீடு செய்யப்பட்ட ரூ.15.84 கோடியிலிருந்து ரூ.61.80 கோடிக்கு உயர்த்தப்பட்டு, 24.12.2020 அன்று வேறொரு அரசாணை பிறப்பிக்கப்பட்டுள்ளது. ஒரே வருட இடைவெளியில் 7,198 வித்தியாசம் அதிகமுள்ள பரப்பளவிற்கான மதிப்பீடுகள் ரூ.45.96 கோடிக்கு உயர்த்தப்பட்டது குறித்து எந்தவிதமான விளக்கமோ, காரணங்களோ தெளிவாக குறிப்பிடவில்லை. இதுகுறித்து தொடர்புடைய பொதுப்பணித்துறை பொறியாளர்களுடனோ அல்லது குறிப்பிட்ட தனியார் நிறுவனத்திடமோ உரிய



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கலந்தாலோசனை செய்யப்படவில்லை. இந்த கூடுதல் செலவிற்கு பதிவாளர் அலுவலகத்தில் எந்தவிதமான பரிசீலனையும் செய்யப்படாமல் அரசுக்கு முன்மொழிவு அனுப்பப்பட்டுள்ளது.

4. ஒரே வருட இடைவெளியில் வெறும் 12 சதவிகித கூடுதல் பரப்பிற்கு (7,198 சதுர அடி) ரூ.45.96 கோடி (சுமார் 300 சதவிகிதம்) தொகை எந்த ஆய்வுக்கும் உட்படுத்தப்படாமல் ஒப்பளிக்கப்பட்டுள்ளது.

5. இந்த கூடுதல் செலவு குறித்து பதிவாளர் அலுவலகத்தில் எந்தவொரு கலந்தாய்வுக் கூட்டமோ நடத்தப்படாமலும், எந்தவொரு கூட்ட நடவடிக்கை குறிப்புகளோ இல்லாமலும், அரசுக்கு முன்மொழிவு அனுப்பப்பட்டு, அதன் அடிப்படையில் அரசாணை பிறப்பிக்கப்பட்டுள்ளது.

6. மேலும் ஏற்காடு பயிற்சி நிலையத்தில் உத்தேசிக்கப்பட்ட அரசு அலுவலர்களுக்கான அடிப்படை பயிற்சி வகுப்புகள் ஏற்கனவே கூட்டுறவுத் துறை உட்பட அனைத்துத் துறை அலுவலர்களுக்கும் வழங்கப்பட்டு வரும் நிலையிலும், அந்த பவானி சாகர் பயிற்சி நிலையம் ரூ.36.36 கோடி மதிப்பில் முழுவதுமாக நவீன முறையில் கட்டப்பட்டு, அகில இந்திய அளவிலேயே அடிப்படை பயிற்சிக்கு ஒரு முன்னோடி பயிற்சி நிலையமாக இருக்கும்போது இந்த ஏற்காடு பயிற்சி நிலையத்தில் உத்தேசிக்கப்பட்ட அடிப்படை பயிற்சி முற்றிலும் தேவையற்ற ஒன்றாகும். இதுபோலவே



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22.10.2018 அன்று வெளியிடப்பட்ட அரசாணையில் குறிப்பிட்டுள்ள இதர நான்கு பயிற்சிகளையும் அளிக்க மாநிலத்தில் ஏற்கனவே பல பயிற்சி மையங்கள் உள்ளன.

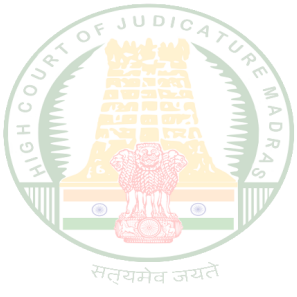
7. ஏற்காடு அமைந்துள்ள சேலம் மாவட்டத்தில் ஏற்கனவே மாவட்ட அளவிலான நாச்சியப்பா கூட்டுறவு மேலாண்மை பயிற்சி மையத்திலும் இதே போன்ற பயிற்சிகள் வழங்கப்பட்டு வருவதால், அது தொடர்பான பயிற்சிகளுக்கு மேலுமொரு பயிற்சி மையம், அதுவும் ரூ.61.80 கோடி செலவில் அமைப்பது என்பது முற்றிலும் வீண் செலவாகும்.

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மேலும், வங்கிகளில் பணியாற்றும் பணியாவர்களுக்கென பிரத்யேகமான ஒரு பயிற்சி நிறுவனம் மாதவரத்தில் 1989ஆம் ஆண்டு ரூ.2.45 கோடி செலவில் ஆரம்பிக்கப்பட்டு, வங்கிப் பணியாளர்களுக்கு மட்டுமல்லாமல் தேர்ந்தெடுக்கப்பட்ட நிர்வாகக் குழு உறுப்பினர்கள், தலைவர்கள், செயலாளர்கள், இளநிலை உதவியாளர்கள், உதவியாளர்கள், ஆண்டொன்றுக்கு 150 பயிற்சிகள் மூலம் 3,500 பயிற்சியாளர்களுக்கு பயிற்சி அளிக்கப்பட்டு வருகிறது. இந்நிலையில், வங்கிகளின் பணத்தைக் கொண்டு, வங்கிகள் அல்லாத இதர கூட்டுறவு பணியாவர்களுக்கு என



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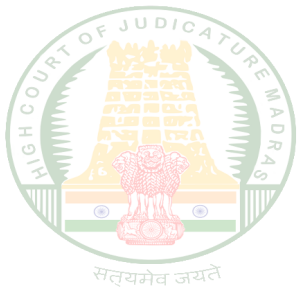
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இந்த ஏற்காடு பயிற்சி நிலையம் ஆரம்பிப்பது என்பது அடிப்படையிலேயே ஏற்றுக்கொள்ளக்கூடியது ஒன்றல்ல.

9. தமிழ்நாட்டில் ஏற்கனவே உள்ள மாநில அளவிலான சென்னை அண்ணாநகரில் உள்ள நடேசன் கூட்டுறவு மேலாண்மை பயிற்சி நிலையம் 1954ஆம் ஆண்டில் ஆரம்பிக்கப்பட்டு, ஆண்டொன்றுக்க 80 பயிற்சிகள் மூலம் 2000 எண்ணிக்கையில் வங்கிகளில் பணியாற்றுபவர்கள் உட்பட, தேர்ந்தெடுக்கப்பட்ட நிர்வாகக் குழு உறுப்பினர்கள், தலைவர்கள், செயலாளர்கள், இளநிலை உதவியாளர்கள், உதவியாளர்கள், கூட்டுறவு சார்பதிவாளர்கள் நிலையிலிருந்து உயர் அலுவலர்கள் வரை உள்ளிட்ட பயிற்சியாளர்களுக்கு பயிற்சி அளிக்கப்பட்டு வருகிறது.

அதேபோல, மதுரையில் 1999ஆம் ஆண்டில் ஒரு மாநில அளவிலான கூட்டுறவு மேலாண்மை நிலையம் ரூ.1.72 கோடியில் ஆரம்பிக்கப்பட்டு, மேற்குறிப்பிட்ட அனைத்துப் பிரிவினருக்கும் ஆண்டொன்றுக்கு 80 பயிற்சிகள் மூலம் 5000 நபர்களுக்கு பயிற்சி அளிக்கப்பட்டு வருகிறது. இந்நிலையில் அதே நோக்கத்திற்காக தேவையின்றி ரூ.61.80 கோடி செலவில் ஏற்காட்டில் ஆரம்பிப்பது என்பது முற்றிலும் அரசுக்கு தேவையற்ற நிதிச் சுமையை ஏற்படுத்தும்.

10. ஏற்காடு பயிற்சி நிலையம் ஆரம்பிப்பதற்கு ஒதுக்கப்பட்ட இடத்தினை வீணாக்காமல்,



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ஏற்காட்டில் உள்ள மலைவாழ் மக்கள் பயன்பெறும் வகையில் ஏற்காட்டில் உள்ள மலைவாழ் மக்கள் பெரும்பலனோக்கு கூட்டுறவு சங்கத்திற்கு வழங்குவதன் மூலம், அந்த மலைவாழ் மக்களின் மேம்பாட்டிற்காக அவர்களது பல்வேறு விளை பொருட்களை விற்பனை செய்வது மற்றும் அதுபோன்ற பிற வசதிகளை ஏற்படுத்தி தருவதற்கு பயன்படுத்திக் கொள்ளலாம். இதன் மூலம் அங்குள்ள மலைவாழ் மக்களின் வாழ்வாதாரம் காக்கப்பட்டு, அவர்களின் பொருளாதார நிலையை உயர்த்துவதற்கு இது உதவும். கோப்பு பதிவாளரின் பரிசீலனைக்காகவும், ஆணைகளுக்காகவும் சமர்ப்பிக்கப்படுகிறது."

22. Based on the aforesaid reasons, which has been exhaustively given, the Registrar of Co-operative Societies was directed to send a communication on 26.07.2021 which is reflected in the file, pursuant to which only, the Registrar of Co-operative Societies had sent the communication, dated 28.07.2021 which is impugned in the first writ petition.



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23. Therefore the decision taken to stop the construction work at the

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Yercaud Institute was not taken only at the Department level, i.e., the Registrar of Co-operative Societies and that was taken in the Review Meeting headed by the Chief Minister on 03.07.2021.

24. Since the said decision had been taken, as a follow up action, the Registrar of Co-operative Societies, vide his letter, dated 14.09.2021, has sent a recommendation to the Government to issue a necessary Government Order to cancel the earlier sanction made by the Government for establishment of the State level Co-operative Training Institute at Yercaud. Accepting the said recommendation, which infact was made by the RCS only pursuant to the decision already taken in the Review Meeting of the Department headed by the Chief Minister, the Government issued the G.O canceling the earlier G.O issued in this regard pertaining to the Yercaud Institute. Accordingly, G.O.(Ms).No.99, dated 09.11.2021 was issued, whereby the earlier Government Order, i.e., G.O.(Ms).No.146, dated, 24.12.2020 sanctioning a sum of Rs.61.80 crores for the establishment of the State Level Co-operative Training Institute at Yercaud was cancelled.



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25. Therefore on perusal of these documents, which are found in the file, this Court is of the view that, a decision to cancel the project of State Level Co-operative Training Institute at Yercaud was a decision taken by the Government in a Review Meeting headed by the Chief Minister, therefore, it can certainly be construed as a policy decision taken by the Government.

26. Though in a parallel development, the Government also taken a policy decision to establish a National Level Co-operative Training Institute at Kodaikanal, for which, an announcement has been given by the Minister before the floor of the Assembly on 25.08.2021, the said decision to establish a National Level Institute may be one of the reason for cancelling the establishment of the State Level Institute at Yercaud but not the only reason to take a decision to cancel the earlier decision taken in this regard to establish the State Level Institute at Yercaud.

27. Now the only question to be answered by this Court is, whether this policy decision taken by the Government which are reflected in the



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Government Order in G.O.(Ms).No.99, dated 09.11.2021 can be successfully questioned by the petitioner.

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28. In order to delve the answer to the said question, this Court wants to analyse few decisions of this Court as well as the Hon'ble Apex Court on these aspects.

29. In a decision of the Hon'ble Supreme Court reported in **(2002) 10 SCC 226** in the matter of **Union of India and others v. Kannadapara Sanghatanegala Okkuta & Kannadigara**, the question posed before the Hon'ble Supreme Court was that, whether the decision taken by the Union Government, i.e., Ministry of Railways to locate the Zonal Headquarters of the South-western Railway at Hubli instead of Bangalore, which was already decided to be at Bangalore, is a justifiable decision and in that case, whether the present decision taken to locate at Hubli instead of Bangalore can be questioned successfully before the Court of law.



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30. In that case, it was an earlier decision of the Union Government to

locate the Zonal Headquarters of South-western Railway at Bangalore.

Some initial work seems to have been undertaken to locate the office at Bangalore, however, subsequently, a revised decision was taken by the Government to relocate it at Hubli instead of Bangalore. The said decision taken by the Union Government to locate at Hubli instead of Bangalore was questioned before the High Court of Karnataka, where the ground of legal malafide was alleged, which was accepted by the High Court of Karnataka and the writ petition was allowed, thereby the decision taken by the Union Government to locate the South-western Railway Headquarters office at Hubli instead of Bangalore was set aside.

31. As against which, the Union Government approached the Hon'ble Supreme Court by filing Civil Appeal Nos. 7014 and 7015 of 2001, where the Hon'ble Supreme Court in the aforecited decision has held as follows :

"4. It is contended by the learned Solicitor-General that where the headquarters of a zonal Railway should be is only a question of policy and it is no business of the court to interfere with a policy decision. He drew out attention to the



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fact that it is the Ministry of Railways which had initially decided with the approval of the Union Cabinet that the headquarters be set up at Bangalore, but no notification establishing the headquarters at Bangalore was ever issued under the Railways Act. Thereafter, it is the Union Cabinet which took a decision that the headquarters should be shifted from Bangalore to Hubli. This fact is not disputed.

5. We do not find any basis for the High Court coming to the conclusion that the decision of the Union Cabinet was vitiated on account of legal mala fides. Merely because an administrative decision has been taken to locate the headquarters at Bangalore, which decision is subsequently altered by the same authority, namely, the Union Cabinet, cannot lead one to the conclusion that there has been legal mala fides. Why the headquarters should be at Hubli and not at Bangalore, is not for the court to decide. There are various factors which have to be taken into consideration when a decision like this has to be arrived at. Assuming that the decision so taken is a political one, it cannot possibly give rise to a challenge on the ground of legal mala fides. A political decision, if taken by a competent authority in accordance with law, cannot per se be regarded as mala fide. In any case, there is nothing on the record to show that the present decision was motivated by political consideration.



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The observation of the High Court that there has been a change in the decision because there was a change of the Governments and a different political party had come into power, is not supported by any basis. That the court will not interfere in questions of policy decision is clearly brought out by the following passage from a decision of this Court in *Delhi Science Forum v. Union of India* [(1996) 2 SCC 405] when at p. 413, it was observed as follows: (SCC p. 413, para 7)

“7. What has been said in respect of legislations is applicable even in respect of policies which have been adopted by Parliament. They cannot be tested in court of law. The courts cannot express their opinion as to whether at a particular juncture or under a particular situation prevailing in the country any such national policy should have been adopted or not. There may be views and views, opinions and opinions which may be shared and believed by citizens of the country including the representatives of the people in Parliament. But that has to be sorted out in Parliament which has to approve such policies. Privatisation is a fundamental concept underlying the questions about the power to make economic



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decisions. What should be the role of the State in the economic development of the nation? How the resources of the country shall be used? How the goals fixed shall be attained? What are to be the safeguards to prevent the abuse of the economic power? What is the mechanism of accountability to ensure that the decision regarding privatisation is in public interest? All these questions have to be answered by a vigilant Parliament. Courts have their limitations — because these issues rest with the policy-makers for the nation. No direction can be given or is expected from the courts unless while implementing such policies, there is violation or infringement of any of the constitutional or statutory provision. The new Telecom policy was placed before Parliament and it shall be deemed that Parliament has approved the same. This Court cannot review and examine as to whether the said policy should have been adopted. Of course, whether there is any legal or constitutional bar in adopting such policy can certainly be examined by the Court.”



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6. We further find that the High Court has issued a direction to the appellants herein to locate the zonal office of the Railways at Bangalore. Apart from the fact that in matters of policy the court will not interfere, such a direction could under no circumstances have been issued. If a case had been made out, and in this case no such case had been made out, that a decision to locate at Hubli was not in accordance with law, then the only direction which could have been issued by the court was to consider as to where the headquarters should be located. It is not the function of the court to decide the location or the situs of the headquarters, it is the function of the Government. On this ground also, the decision of the High Court is incorrect."

32. In fact, this decision of the Hon'ble Apex Court was followed by a Division Bench of this Court in a related issue reported in (2011) 4 CTC 113, in the matter of Dr.G.Krishnamurthy v. Chief Secretary to the Government of Tamil Nadu and others.

33. In the said G.Krishnamurthy's case, the issue was that, the then State Government of Tamil Nadu, which was in the regime between 2006 and 2011 decided to construct a new Assembly and Administrative Office of

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the Secretariat at Omandurar Government Estate, for which, 1100 crores of Rupees was spent and a massive structure was built. However, since the State Government was voted out of power in 2011 Election, a new dispensation had come, which had taken a decision to relocate the Assembly and Secretariat Complex at Fort St. George instead of Omandurar Government Estate Building and that proposal was questioned by the petitioner by way of Public Interest Litigation before a Division Bench of this Court in the aforecited case.

34. Where the Division Bench, after having taken note of the Karnataka's case cited supra, i.e., (2002) 10 SCC 226, has rejected the plea of the petitioner, by making the following observations :

5. We have perused the Writ Petition and considered the submission made by the learned Counsel for the parties.
6. The question that falls for consideration firstly, is as to whether such a relief can be sought for by designing the Writ Petition as a Public Interest Litigation; and secondly, whether this Court, under Article 226 of the Constitution of India, can interfere with the administrative and policy decisions of the Government and decide as to whether the State Secretariat will



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be located, in the new building or in the old building.

7. It is well settled that Public Interest Litigation is not meant to be a weapon to challenge the financial, economic or other decisions which are taken by the Government in exercise of their administrative power. No doubt, a person personally aggrieved by any such decision, which he regards as illegal, can impugn the same in a Court of law, but a Public Interest Litigation for such cause cannot be entertained. Such a litigation cannot *per se* be on behalf of the poor and the downtrodden. It has also been settled by the Apex Court that the forum of Public Interest Litigation is not meant for serving political purpose or solving political problem; political problem ought to be solved through political process, and not through judicial process. The Concept of Public Interest Litigation is evolved for the purpose of safeguarding the interest and welfare of the poor people who are in a disadvantaged position and not to decide the propriety of the policy decision of the Government.

8. De Smith, in his book “*Judicial Review*”, on the question of limitation of Courts in the matter of policy decisions, observed thus:

“Asserting the Constitutional capacity of the Courts in these situations does not, however, mean that the Courts should not recognize both their own



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Constitutional and relative institutional limitations. As we have already discussed in relation to the question of ‘justiciability’, decisions involving ‘policy’ - the utilitarian calculation of the public good—such as decisions about the levels of taxation or public expenditure are, Constitutionally, in the realm of the legislature. In respect of other decisions, the relative institutional capacity of Courts and the legislature, executive and other bodies will be relevant to the extent and degree of judicial intervention. Decisions that are polycentric, involving the allocation of scarce resources (for example, whether a hospital should provide very expensive treatments) are similarly not normally suited to decisions by Courts. Decisions taken by experts, and those best able to calculate risk, indicate some measure of institutional respect.”

The author further says as follows:

“Substantive review in English law has been dominated by the Concept of Unreasonableness closely identified with the famous formulation by Lord Greene, M.R. in the *Wednesbury case*, that the Courts can only interfere if a decision ‘is so



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unreasonable that no reasonable authority could ever come to it'. That formulation attempts, albeit imperfectly, to convey the point that Judges should not lightly interfere with official decisions on this ground. In exercising their powers of review, Judges ought not to imagine themselves as being in the position of the Competent Authority when the decision was taken and then test the reasonableness of the decision against the decision they would have taken. To do that would involve the Courts in a review of the merits of the decision, as if they were themselves the recipients of the power. For that reason, Lord Greene in *Wednesbury* thought that an unreasonable decision under his definition 'would require something overwhelming' (such as a teacher being dismissed on the ground of her red hair)."

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...

10. In the instant case also, in our view, it is for the Government to decide as to which building shall be comfortable for the purpose of establishing the State Secretariat. If the Government takes a policy decision to run



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the Secretariat from the old building, this Court cannot issue a direction to the Government to change their decision.

11. For the aforesaid reasons, we do not find any merit in this Writ Petition and the same is, therefore, dismissed. However, there shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are closed.

35. The very same issue, i.e., reshifting of the Tamil Nadu State Assembly and Secretariat complex from Omandurar Estate to Fort St. George, by issuance of a G.O., i.e., G.O.Ms.No.846, Public Buildings Department, dated 14.09.2021 was under challenge in a batch of writ petitions in the reported case in **2013 WLR 317** in the matter of **R.Veeramani v. The State of Tamil Nadu & others**. A Division Bench of this Court, by an exhaustive Judgment, has gone through various decisions of the Hon'ble Apex Court on this aspect including two decisions referred to above, i.e., Karnataka's case on the South-western Railway Headquarters issue as well as G.Krishnamurthy's case and also some other cases and has come to the conclusion that, the policy decision taken by the Government cannot be questioned by alleging any legal malafide.



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36. In a decision reported in **(2003) 4 SCC 289**, in the matter of

Federation of Railway Officers Association and others v. Union of

India, the power of judicial review on policy matters how to be exercised

has been underscored in para 12, which reads thus :

"12. In examining a question of this nature where a policy is evolved by the Government judicial review thereof is limited. When policy according to which or the purpose for which discretion is to be exercised is clearly expressed in the statute, it cannot be said to be an unrestricted discretion. On matters affecting policy and requiring technical expertise the court would leave the matter for decision of those who are qualified to address the issues. Unless the policy or action is inconsistent with the Constitution and the laws or arbitrary or irrational or abuse of power, the court will not interfere with such matters."

37. Infact, a Supreme Court decision in **Directorate of Film Festivals v. Gaurav Ashwin Jain** reported in **(2007) 4 SCC 737** was cited by the learned Senior counsel appearing for the petitioner. On perusal of the same, this Court feels that, infact the said decision supports the case of the

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respondents. Para 16 of the said Judgment reads thus :

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"16. The scope of judicial review of governmental policy is now well defined. Courts do not and cannot act as Appellate Authorities examining the correctness, suitability and appropriateness of a policy. Nor are courts Advisors to the executive on matters of policy which the executive is entitled to formulate. The scope of judicial review when examining a policy of the government is to check whether it violates the fundamental rights of the citizens or is opposed to the provisions of the Constitution, or opposed to any statutory provision or manifestly arbitrary. Courts cannot interfere with policy either on the ground that it is erroneous or on the ground that a better, fairer or wiser alternative is available. Legality of the policy, and not the wisdom or soundness of the policy, is the subject of judicial review [vide : *Asif Hameed v. State of J&K* - 1989 Supp (2) SCC 364; *Shri Sitaram Sugar Co. Ltd., v. Union of India*- 1990 (3) SCC 223; *Khoday Distilleries v. State of Karnataka*- 1996 (10) SCC 304, *Balco Employees Union v. Union of India*- 2002 (2) SCC 333), *State of Orissa vs. Gopinath Dash*- 2005 (13) SCC 495



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and Akhil Bharat Goseva Sangh vs. State of
Andhra Pradesh- 2006 (4) SCC 162]."

38. If we look at the principle enunciated in the aforesaid cases, it would make abundantly clear that, the scope of judicial review on policy matters are very limited. Moreover, whether a particular type of training Institute is required for the state or not is necessarily a policy decision to be taken, of course on the basis of the expert views given in this regard, by the State Government. Like that, such kind of training institute should be at the State level or National level also again be the policy decision to be taken by the State Government.

39. If at all, a policy decision already been taken by the State Government to establish a State level Training Institute at Yercaud, ofcourse the successive Government has taken a further policy decision for specific reasons that, such kind of State Level Institute is not required in the State because already two such State Level Institutes are located and are well doing, moreover spending of a sum of Rs.61.80 crores, to establish one more State Level Training Institute is a wasteful expenditure, those reasons

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cannot be pierced by this Court by way of judicial review to give the answer

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40. If an established arbitrariness is available for the scrutiny before this Court, then only during the judicial process, the Court can interfere in any such decision by adopting the Wednesbury's principle of arbitrariness.

41. Now the present State Administration has taken a decision to establish a National Level Institute at Kodaikanal, for which certain reasons have been given, ofcourse the said decision is not questioned by the petitioner in these writ petitions. Even the said decision cannot be stated to be a flawed one by this Court, unless and until the explicit arbitrariness touching the Constitutional parameters in this regard as enunciated under various decisions of the Hon'ble Apex Court are available for Judicial Review.



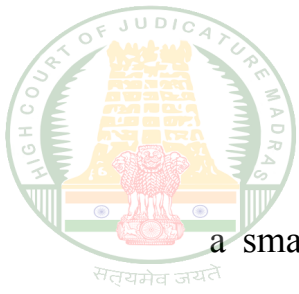
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42. Like that, a decision is taken by the Government by way of policy

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decision not to have a State Level Co-operative Training Institute at Yercaud, unless it is an arbitrary exercise of power without any reason or rhyme or the very exercise itself is a colourable exercise, the Court cannot extend its judicial arm to question the veracity of such decision taken by the Government.

43. In the present case, though a decision was taken by the earlier Government to establish the State Level Institute, for which, fund has been allocated, ofcourse from various sources like Co-operative Banks etc., and some initial construction work was commenced, at that stage, the present Government has reviewed the situation in the Review Meeting of the Department concerned headed by the Chief Minister. Out of the Review, several reasons had come out or emanated, which suggest unequivocally that, such kind of State Level Institute at Yercaud is an unwanted expenditure to be incurred, as already there are two State Level Institutions functioning well. Moreover, initially the fund was allotted Rs.15 crores and odd and for a small extension of the area, i.e., the expanded construction in

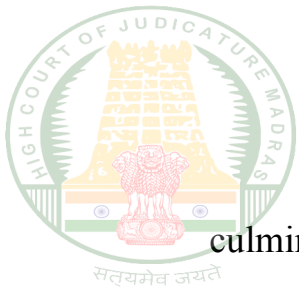


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a small area, the fund has been enhanced to Rs.61.80 crores, for which, according to the Government, there has been no discussion or reasons or plan at the Department level, i.e., the Co-operative Department and all of a sudden, since the fund has been enhanced from Rs.15 crores to Rs.61 crores, that would be a wasteful expenditure, according to the Government.

44. These are all the issues, which were discussed in the Review Meeting on 03.07.2021 headed by the Chief Minister and the decision which emerged from the said meeting appears to be to stop the ongoing project, i.e., construction of the State Level Institute at Yercaud. That is the reason why on 28.07.2021, the Registrar of Co-operative Societies had directed the Public Works Department to stop the work immediately.

45. Therefore, the decision taken in the Review Meeting headed by the Chief Minister on 03.07.2021, as held by this Court herein above as a policy decision, cannot be questioned before this Court, unless the reasons indicated by citing the aforesaid decisions of the Hon'ble Apex Court as well as this Court are available to the petitioner. Therefore, the decision



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culminated in the stop construction notice or letter, dated 28.07.2021 which

is impugned in the first writ petition cannot be found fault with. Therefore, the said challenge made against the said communication, in the considered view of this Court, fails.

46. During the pendency of the first writ petition, since a question was raised, whether any policy decision was taken at the Government level and at the Department level or only at the Department level decision, pursuant to which, the stop construction notice was issued, the Government had issued the G.O.Ms.No.99, dated 09.11.2021 of the Co-operation, Food and Consumer Protection Department.

47. Infact, the said decision, to cancel the G.O.(Ms).No.146 earlier issued for sanctioning the amount of Rs.61.80 crores for the establishment of the State Level Institute at Yercaud, actually emanated from the Review Meeting dated 03.07.2021 which has already been constured as a policy decision, therefore, that was only culminated in the impugned G.O.(Ms).No.99, dated 09.11.2021. Therefore, the aforestated reason would



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also equally be made applicable when the G.O.(Ms).No.99 is questioned in

the second writ petition. Hence, this Court also has no hesitation to hold

that, the policy decision taken by the Government to cancel the establishment of the State Level Institute, for the reasons stated therein, which infact extracted herein above, cannot be said to be unlawful or untenable or arbitrary exercise of power. Therefore the challenge made against the impugned order in the second writ petition is also unsustainable and accordingly, that challenge also fails.

48. Insofar as taking a policy decision by the elected Government is concerned, the Law is well settled. Normally judicial review would not go against such policy decision, unless there is a colourable exercise with rampant arbitrariness, which is explicitly and shockingly strike the conscience of the Court. The aforesaid decision taken to cancel the establishment of the State Level Institute at Yercaud cannot be brought under the said category as referred to above. Therefore such a policy decision cannot be questioned before this Court by way of judicial review.



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49. If an elected Government has taken a policy decision, under which, a project is conceived and put into action, when a subsequent Government is elected by a democratic exercise, it is for the successive Government to review such policy decision, based on the policy under which they have given the election manifesto to the people who vote them to power and accordingly, the earlier decision taken by the erstwhile Government can very well be reviewed by the subsequent Government, ofcourse within the parameters or four corners of the Constitution.

50. However, when such a review is undertaken by the successive Government, it must borne in mind that, whether the earlier decision taken by the erstwhile Government, for which, if the money of the exchequer had been spent, whether to be allowed to go a waste or to be utilised for a better alternative utility of the public.

51. Only in this context, when a decision was taken by the then Government, sometime in 2011, to relocate the Integrated Assembly and Administrative Secretariat complex of the State from Omandurar



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Government Estate to Fort St. George, this Court in two Division Bench Judgments, cited supra, has refused to interfere in the said decision by way of judicial review.

52. Though a sum of Rs.1100 crores were spent by the Government, which was in power who had taken a decision to have the Assembly and Secretariat complex at Omandurar Estate, the subsequent Government had reviewed the decision and that review on the part of the Government was accepted by this Court in the said two decisions.

53. Here in the case in hand, though a decision was taken by the previous Government, to establish a State Level Co-operative Training Institute at Yercaud, the said decision was reviewed by the present Government and on 03.07.2021 in the Review Meeting taken place in this regard headed by the Chief Minister, where they decided to cancel the establishment of the said Institute and accordingly, that culminated in the communication, dated 28.07.2021 and ultimately in the G.O.Ms.No.99, dated 09.11.2021.



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WEB COPY 54. In this context, it was argued on behalf of the petitioner that, the amount has been sanctioned and some work has been commenced, why that should be allowed to go a waste. In this regard answer had already been given by the Government side that, the land allotted for the State Level Institute at Yercaud, i.e., 4 and odd acres would be best utilised for the development of the hilly area people and therefore, the said land would not be allowed to go a waste.

55. Since the construction work was in the initial stage and immediately the said construction work was directed to be stopped by the proceedings, dated 28.07.2021 itself, not much fund had been spent even out of the 15 crores initially credited in the account of the PWD. Therefore, no fund of the State Exchequer or from the Co-operative Banks etc., from whom the fund were collected, had been permitted to go a waste by stopping the said project. Therefore on that ground also, the argument advanced by the learned Senior counsel appearing for the petitioner cannot be accepted.



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56. Before parting with this case, this Court wants to express certain suggestions to the democratically elected Government, to follow or to take into account these suggestions while reviewing the decision taken by the earlier Government :

- ◆ If a decision taken by the earlier Government or erstwhile Government is good to the public and the society at large, the successive Government can very well continue the project, if it is yet to be completed or half way through, for which further financial support is required.
- ◆ If the erstwhile or the previous Government has taken a decision for any project to be undertaken for the welfare of the people, for which heavy amount of Government exchequer has been already spent, while taking a review in respect of those decision, the successive Government must borne in mind that, such kind of huge spending from exchequer shall not be allowed to go a waste. In this regard, even an alternative proposal for the best utility of the fund already been spent may not be a full and expected usage, for which originally the project was conceived and implemented.



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WEB COPY Merely because the earlier Government was from a different political dispensation and the present Government is of a different political dispensation, all decisions taken by the earlier Government need not be reviewed. However, certain decisions taken by the earlier or erstwhile Government, if it is not good for the welfare of the people at large or the society, those decisions can be reviewed and alternative best administrative solution can very well be given.

57. Though a legal malafide or political malafide has been alleged on behalf of the petitioner, those reasons either are not available in this case or cannot be taken as a ground to interfere with the policy decision taken by the Government, as the requirement of the State is to be best decided only by the democratically elected Government. Whether the State is requiring a State Level Institute or National Level Institute and such kind of Institute is to be located at A place or B place or C place is best to be decided only by the democratically elected Government and not by this Court, therefore, for this reason also, this Court do not want to interfere with the decision taken



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by the present Government, which is reflected in the impugned

WEB COPY communication as well as the G.O.

58. However, this Court wants to point out that, in certain areas, all successive Governments for several decades in this State have consistently taken some policy decision which support the earlier Government's decision irrespective of the political dispensation. Some of such kind of decisions taken, though are detrimental to the welfare of the people and interest of the society at large in the State, the successive Governments have not given up such policy, because they have eye on the revenue for the State Exchequer.

59. Illustratively this Court can point out that, in respect of prohibition policy, for the past about five decades, very many successive Governments have been continuously and steadily following the same prohibition policy, under which, the State, either through licensees or through State Agency like TASMAL made available of liquor to the people to their most convenient manner and place, knowing well that, such a prohibition policy decision is certainly injurious and detrimental to the



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people at large in this State and also against the growth of the State. The

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only reason these successive Governments have given to the people for continue to follow the same prohibition policy is that, it is a large revenue source for the Government.

60. Even these kind of policy decisions, though detrimental to the interest of the people cannot be questioned through a judicial review. Courts have laid off their hands at times when these policy decisions were questioned.

61. Therefore the challenge made in the present writ petitions which questioned the order of the Registrar of Co-operative Societies, dated 28.07.2021 and the G.O. of the Government through G.O.(Ms).No.99, dated 09.11.2021 are not better placed for any plausible reason in the eye of law to interfere with the said decisions taken through a policy of the Government, by way of judicial review.



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62. For all these reasons and discussions herein above made, this

WEB COURT is of the considered view that, both the writ petitions are liable to be rejected, accordingly, they are dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

14.05.2022

Index : Yes
Speaking order
tsvn

Note to Office : Issue order copy on 16.05.2022

To

1. The Registrar of Co-operative Societies
170, Periyar E.V.R.High Road,
Kilapuk, Chennai.
2. The Secretary to Government
Co-operative, Food and Consumer Department,
Secretariat, Chennai - 600 009.
3. The Additional Registrar / Managing Director
Tamil Nadu State Apex Cooperative Bank,
Chennai.
4. The Executive Engineer
Building (C&M) Division,
Salem - 636 007.

R.SURESH KUMAR, J.

tsvn

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**Common Order
in
W.P.Nos.23369 and 25287
of 2021**

14.05.2022

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