

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE**

WEDNESDAY, THE 25TH DAY OF NOVEMBER 2015/4TH AGRAHAYANA, 1937

WA.No. 2526 of 2015

AGAINST THE JUDGMENT IN W.P.(C).NO.23006/2015, DATED 03-11-2015

APPELLANT(S)/RESPONDENT NO.4 :

**THE ADATTU FARMERS SERVICE CO-OPERATIVE BANK LIMITED NO.689
P.O.PURANATTUKARA, THRISSUR - 680 551,
REPRESENTED BY ITS SECRETARY.**

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENT(S)/PETITIONER & RESPONDENTS 1 TO 3 :

- 1. K.R.AJAYAKUMAR,
S/O.RAMAKRISHNAN, KURIYAKOTTU HOUSE, P.O.PERAMANGALAM,
THRISSUR DISTRICT, PIN - 680 545.**
- 2. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
DEPARTMENT OF CO-OPERATIVE SOCIETIES,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM- 695 001.**
- 3. THE REGISTRAR OF CO-OPERATIVE SOCIETIES (KERALA),
THIRUVANANTHAPURAM - 695 001.**
- 4. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
THRISSUR - 680 001.**

R1 BY ADVS. SRI.K.C.SANTHOSHKUMAR

SMT.K.K.CHANDRALEKHA

R2 TO R4 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 25-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.A. No. 2526 of 2015

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Dated this, the 25th day of November, 2015

J U D G M E N T

Ashok Bhushan, C.J.

Heard. This writ appeal has been filed against judgment dated 3rd November, 2015 in WP(C) No.23006/2015. The 1st respondent herein was working as a Class IV employee in the Society as Peon. By Ext.P11 order issued by the Chairman of the Disciplinary Sub Committee, the 1st respondent/writ petitioner was dismissed from service, which was challenged in the writ petition. Learned Single Judge held that the Disciplinary Sub Committee, who has passed the order of dismissal had no jurisdiction to dismiss the writ petitioner and the order without being jurisdiction, the writ court can entertain the writ petition and the writ petitioner ought not have been relegated to the alternate remedy as provided in the Rules.

2. Learned counsel for the appellant challenging the order contends that as per Rule 198 of the Kerala Co-operative Societies

Rules, 1969, the authority who has dismissed has concurrent power to hear the appeal. Hence, it cannot be said to be a case where order of dismissal was without jurisdiction. A perusal of Rule 198 (3) indicates that the authority competent to impose the penalty of dismissal from service with regard to a Class IV employee is covered in the category (all other employees) and penalty of dismissal that is referable to sub clause (h) can be imposed only by the President. The Disciplinary Sub Committee which has passed the order of dismissal had no jurisdiction to pass the dismissal order. The statement of the learned counsel for the appellant is that there was appellate power vested in the body which has passed the dismissal order. Hence, the order cannot be stated to be completely without jurisdiction. He submits that the appellate power can be exercised either by the Executive Committee or the Board of Management.

Be that as it may, present was not a case of exercise of any appellate power so as to give any benefit to the argument raised by the learned counsel for the appellant. Present is a case of dismissal imposed by the Chairman of Disciplinary Committee who has no authority to pass the dismissal order. The order was

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clearly without jurisdiction. Learned Single Judge has elaborately considered all submissions and has analysed the Rules before coming to the said conclusion. We do not find any error in the judgment of the learned Single Judge. Writ appeal is dismissed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp25/11/2015

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PS to Judge