

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2015

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.No.21069 of 2015
and M.P.Nos.1 and 2 of 2015

M.Loganathan

.. Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
Kancheepuram Region,
Kancheepuram,
Kancheepuram District.

2.The President,
G.1682, Maduramangalam Primary
Agricultural Coop. Credit Society,
Maduramangalam, Village & Post,
Sriperumpudur Taluk,
Kancheepuram District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the first respondent in his proceedings Mu.Mu.3482/2014/Sa.Pa dated 03.07.2014 and quash the same and consequently direct the respondents to disburse the subsistence allowance to the petitioner for the period under suspension from 31.12.2012 to till date together with arrears.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram,
Special Govt. Pleader (Cooperative Societies)

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O R D E R

By consent, this writ petition is taken up for final disposal.

2. The petitioner, while working as Secretary of the second respondent was placed under suspension on 13.12.2012 and it is the specific stand of the petitioner that the second respondent did not pay any subsistence allowance, though the petitioner was placed under suspension right from the year 2012 onwards. The petitioner has also filed a revision under Section 153 of the Tamil Nadu

Cooperative Societies Act, 1983 before the first respondent praying for appropriate direction directing the second respondent to disburse the subsistence allowance to him and also filed W.P.No.17186/2014 praying for issuance of a Writ of Mandamus directing the respondents to disburse the subsistence allowance to the petitioner from 13.12.2012 together with arrears. The first respondent, in compliance of the said order, has passed the impugned order dated 03.07.2014 holding that unless some order is passed with regard to subsistence allowance, revision is not maintainable and challenging the legality of the same, the present writ petition is filed.

3. Mr.C.Prakasam, learned counsel appearing for the petitioner would contend that though the bye-laws of the second respondent Society provides for payment of subsistence allowance, the second respondent for the reasons best known to them, did not disburse the subsistence allowance at all and consequently, the petitioner as well as his family are to put to grave hardship and difficulty and the petitioner for want of funds, is unable to educate the children also and hence, prays for appropriate orders for disbursement of part of the subsistence allowance.

4. Per contra, Mr.L.P.Shanmugasundaram, learned Special Government Pleader would submit that since no orders have been passed in the revision filed under Section 153 of the Act, the present petition is not maintainable and prays for dismissal of this writ petition.

5. This Court has carefully considered the rival submissions and also perused the materials placed before it.

6. It is relevant to extract Section 153(1) of the Cooperative Societies Act, 1983:

"153.Revision.-(1) The Registrar may of his own motion or on application, call for and examine the record of any officer subordinate to him or of the Board or any officer of a registered Society or of the Competent Authority constituted under sub-section (3) of Section 75 and the Government may, of their own motion or on application, call for and examine the record of the Registrar, in respect of any proceedings under this Act or the Rules or the Bylaws not being a proceeding in respect of which an appeal to the Tribunal is provided by sub-section (1) of Section 152 to satisfy himself or themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any decision passed or order made therein; and, if in any case, it appears to the Registrar or the Government that any such decision or order should be modified, annulled, reversed

or remitted for reconsideration, he or they may pass orders accordingly:

Provided that every application to the Registrar or the Government for the exercise of the powers under this section shall be preferred within ninety days from the date on which the proceedings, decision or order to which the application relates was communicated to the applicant."

In the considered opinion of the Court, the stand taken by the first respondent is unsustainable for the reason that under Sub-section (1) of Section 153 of the Act, the Registrar may of his own motion or on application, call for and examine the record of any officer subordinate to him or of the Board or any officer of a registered Society or of the Competent Authority constituted under sub-section (3) of Section 75.

7. In the light of the said provision, there is no specific order is necessary for making a challenge in the form of revision under Section 153 of the said Act. It is also pertinent to point out at this juncture that this Court, while disposing of the writ petition in W.P.No.17186/2014, has directed the first respondent to consider the plea taken by the petitioner in the revision.

8. The learned counsel appearing for the petitioner also made a plea that the petitioner has to meet out urgent educational expenditure of his children and in the light of the same, this Court directs the second respondent to consider the said plea with regard to the disbursement of part of arrears of subsistence allowance forthwith.

9. In the result, this Writ Petition is partly allowed and the impugned order passed by the first respondent in Mu.Mu.3482/2014/Sa.Pa dated 03.07.2014 is set aside and the matter is once again remanded to the first respondent to consider the revision filed by the petitioner on merits and in accordance with law and pass orders on or before 10.09.2015 and the second respondent is also directed to consider the plea made by the petitioner with regard to the disbursement of part of arrears of subsistence allowance, forthwith. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

jvm

To

1.The Joint Registrar of Co-operative Societies,
Kancheepuram Region,
Kancheepuram,
Kancheepuram District.

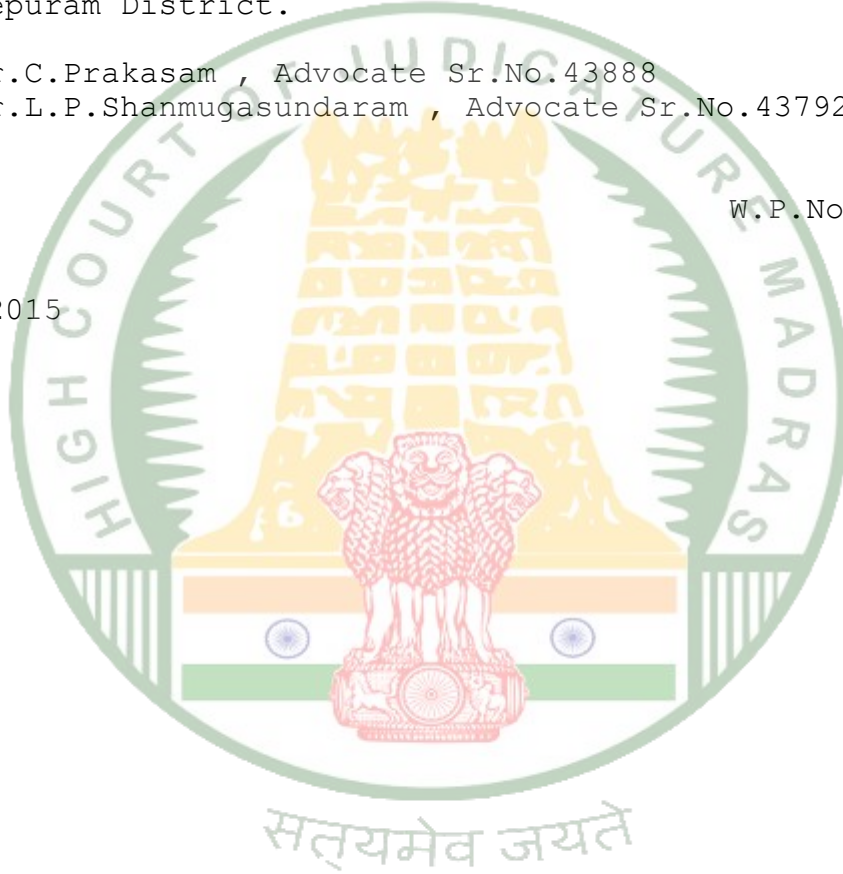
2.The President,
G.1682, Maduramangalam Primary
Agricultural Coop. Credit Society,
Maduramangalam, Village & Post,
Sriperumpudur Taluk,
Kancheepuram District.

1 cc to Mr.C.Prakasam , Advocate Sr.No.43888

1 cc to Mr.L.P.Shanmugasundaram , Advocate Sr.No.43792/15 &
44264/15

W.P.No.21069 of 2015

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pmk.21.8,2015



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