

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.08.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

W.P. No. 22756 of 2015

&

M.P. No. 1 of 2015

G. Joghee

..Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
Nilgiris Region,
Udhagamandalam - 643 001,
Nilgiris District.

2. The Deputy Registrar of Co-operative Societies,
Udhagamandalam Circle,
Udhagamandalam - 643 001,
Nilgiris District.

3. The Co-operative Sub-Registrar/
Inspection Officer,
(U/Sec.82) O/o. The Deputy Registrar
of Co-operative Societies,
Udhagamandalam Circle,
Udhagamandalam - 643 001.
Nilgiris District.

..Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari to call for the entire records relating to the impugned orders passed by the 1st respondent in the proceedings Na.Ka.No. 1025/2015/A3 dated 21.07.2015 and quash the same as illegal and unlawful.

For Petitioner :: Mr.R. Krishnamoorthy
For Respondents :: Mr.R. Bala Ramesh
Addl. Govt. Pleader

O R D E R

This writ petition is filed for issue of a Writ of Certiorari to call for the entire records relating to the impugned orders passed by the 1st respondent in the proceedings Na.Ka.No. 1025/2015/A3 dated 21.07.2015 and quash the same.

2. The case of the petitioner is that he is an employee of Coonoor Pasteur Institute and was elected as one of the 11 Board of Directors of Pasteur Institute Public Servants' Co-operative Thrift & Credit Society Limited. In the election held on 09.05.2013, the petitioner was elected as an Office Bearer, namely, the President of the said Society and the Board of Management of the said Society assumed office on and from 13.05.2013. On complaints received against the Secretary of the said Society, the 2nd respondent ordered inspection and investigation into the irregularities committed by the said Secretary by his proceedings dated 12.08.2013 appointing the 3rd respondent as Inspection and Investigation Officer under Section 82 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as the "Act"). The 3rd respondent, who conducted the investigation and inspection, submitted a report dated 19.11.2013 to the 2nd respondent and while submitting the report, the 3rd respondent, besides recommending for disciplinary action against the Secretary of the said Society, also recommended for permanent disqualification of the petitioner from holding the office of the Board of Directors and President on the ground that he committed breach of trust and mismanagement in the said Society. On the basis of the inspection report dated 19.11.2013 and on the recommendations of the 2nd respondent dated 20.02.2015, the 1st respondent Registrar initiated action under Section 36 of the Act and issued notice dated 03.03.2015 calling for objections and explanations as to why the petitioner should not be permanently disqualified from holding any office in any of the Co-operative Societies and also as to why the petitioner should not be removed from holding the office of the Board of Directors and President of the said Society. On receipt of the said notice, the petitioner sent a reply through his Advocate by letter dated 19.03.2015 before the 1st respondent. Without considering the said reply, the impugned order dated 21.07.2015 was passed by the 1st respondent permanently disqualifying the petitioner from holding the office of the Member of the Board and President of the said Society. Hence, the present writ petition challenging the said order on the ground of violation of principles of natural justice.

3. Heard the learned counsel on either side.

4. It is seen that the petitioner was issued with a notice on 03.03.2015 by the 1st respondent, which was received by him on 07.03.2015 and the petitioner sent his reply through his advocate by letter dated 19.03.2015. A perusal of the impugned order dated 21.07.2015 would reveal that there is no reference about the reply dated 19.03.2015 given by the petitioner and therefore, it is clear that the reply given by the petitioner was not taken into consideration and no proper opportunity was given to the petitioner to put forth his case. Therefore, the impugned order is liable to set aside.

5. Accordingly, the impugned order dated 21.07.2015 passed by the 1st respondent is set aside.

6. The learned counsel for the petitioner would submit that the 1st respondent is prejudiced against the petitioner and therefore, any other officer may be directed to conduct the enquiry.

7. Hence, while setting aside the impugned order, the matter is remanded back to the Additional Registrar of Co-operative Societies (Marketing, Planning and Development), Chennai, who shall conduct an enquiry afresh and pass appropriate orders, after affording a reasonable opportunity to the petitioner, in accordance with law, within a period of 12 weeks from the date of receipt of a copy of this order. The writ petition is disposed of accordingly. No costs. Connected M.P. is closed.
nv

s/d-
Assistant Registrar (CO)

True Copy

Sub-Assistant Registrar

To

1. The Joint Registrar of Co-operative Societies,
Nilgiris Region, Udhagamandalam - 643 001,
Nilgiris District.
2. The Deputy Registrar of Co-operative Societies,
Udhagamandalam Circle,
Udhagamandalam - 643 001,
Nilgiris District.
3. The Co-operative Sub-Registrar/
Inspection Officer,
(U/Sec.82) O/o. The Deputy Registrar
of Co-operative Societies,
Udhagamandalam Circle,
Udhagamandalam - 643 001,
Nilgiris District.

+ 1 cc to M/s.R.Krishnamurthy, Advocate SR 43304

+ 1 cc to Govt.Pleader, SR 43464

ad(co)
prk1/9

W.P. No. 22756 of 2015