

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-08-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.25502 of 2015

K.Mahendran

.. Petitioner

vs

1. The Registrar of Cooperative Societies
No.170, E.V.R. Periar High Road
Kilpauk, Chennai 10

2. The President
Palankarai Primary Agricultural
Cooperative Credit Society
Palankarai, Tiruppur District

.. Respondents

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 in Na.Ka.49720/2010 Sa.Pa.1 dated 1.3.2011, and quashing the same and consequently, directing the first respondent to entertain the revision filed by the petitioner under Section 153 of the Tamilnadu Cooperative Societies Act, 1983, and dispose of the same on merits and in accordance with law.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader

ORDER

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

2.The petitioner would state that he was appointed as a Packer in the services of the second respondent-Society on 20.3.2000. He claims that he possesses requisite educational qualification by passing S.S.L.C. and also having a Diploma in Cooperatives. The grievance expressed by the petitioner, is that though he was appointed as early as on 20.3.2000, and in spite of hard, sincere and

unblemished service rendered by him for nearly 15 years, his services have not been regularised and in this regard, he has submitted a representation dated 17.5.2010, for regularisation and since no orders have been passed, filed a revision before the first respondent under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983, and vide impugned order dated 1.3.2011, it was returned for the reason that only against the orders made under the said Act or Rules or Bylaws, a revision can be filed.

3.Mr.C.Prakasam, learned Counsel appearing for the petitioner, would submit that admittedly, the writ petition is not maintainable against the second respondent and since the petitioner is left with no other alternative and effective remedy, he filed the revision before the first respondent, and therefore, it is obligatory on the part of the first respondent, to entertain the revision and pass orders; but, he has not done so and hence, prays for appropriate orders.

4.Per contra, Mr.L.P.Shanmugasundaram, learned Special Government Pleader, who accepted notice on behalf of the respondents, would submit that the Joint Registrar of Cooperative Societies, Tiruppur, alone is the competent authority to entertain the revision if any, in terms of G.O.(2D) No.108, Cooperation, Food and Consumer Protection Department, dated 31.8.2005, and the petitioner, as a matter of right, cannot claim any regularisation, in the light of the various pronouncements rendered by the Hon'ble Supreme Court of India, and therefore, the first respondent has rightly returned the revision 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 a settled position of law that a writ petition is not maintainable against a Cooperative Society, unless and until statutory violation is pointed out. It is pertinent to note at this juncture, that like any other Tribunals dealing with the service matters, in respect of Cooperative Society Employees, no Tribunal has been constituted and therefore, the only remedy open to the aggrieved persons, if any, is to invoke the revisional jurisdiction of the concerned authority and accordingly, the petitioner has filed the revision before the first respondent under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983.

7.Under Section 153(1) 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.....".

8.In the considered opinion of the Court, it is always open to the jurisdictional authority to call for the records of any society and examine the same. In the light of the said position, this Court is of the view that the impugned order warrants interference.

9.In the result, the writ petition is partly allowed and the impugned order dated 1.3.2011, passed by the first respondent, is set aside and the petitioner is permitted to re-present the revision to the Joint Registrar of Cooperative Societies, Tiruppur, within a period of two weeks from the date of receipt of a copy of this order and the said authority, on receipt of the papers, shall entertain the revision if the papers are otherwise in order, without putting the issue on limitation and pass orders thereon, in accordance with law, within a period of eight weeks thereafter, after putting on notice the second respondent. The petitioner is also entitled to raise additional grounds if any, before the said revisional authority. No costs. Consequently, connected miscellaneous petition is closed.

nsv

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

Note to Office:

Registry is directed to mark a copy of this order to the Joint Registrar of Cooperative Societies, Tiruppur

To:

1. The Registrar of Cooperative Societies
No.170, E.V.R. Periar High Road
Kilpauk, Chennai 10
2. The President
Palankarai Primary Agricultural
Cooperative Credit Society
Palankarai, Tiruppur District

Copy to:

The Joint Registrar of Cooperative Societies
Tiruppur

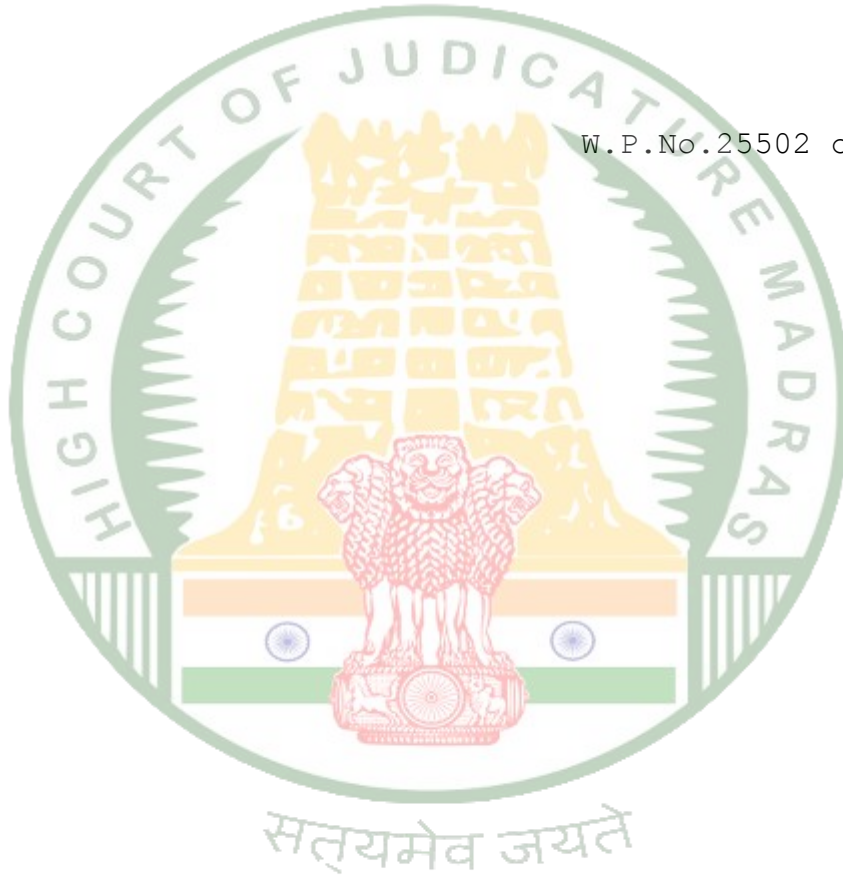
+ 1 cc to Mr.C.Prakasam, Advocate SR 43645

+ 1 cc to Mr.L.P.Shanmugasundaram, Advocate SR 43793

+ 1 cc to Govt.Pleader, High Court, Madras SR 43931

bvr(co)
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