

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.32586 of 2015

And

M.P.Nos.1 and 2 of 2015

Kamarasu

...Petitioner

Vs.

1 The Joint Registrar of Co-operative Societies,
Krishnagiri.

2 The President
K.K.45, Sapparthi Primary
Agricultural Co-operative Credit Society
Panagamutlu Post
Krishnagiri Taluk and District.

...Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus calling for the entire records of the impugned order passed by the 1st respondent in her proceedings in Na.Ka.5486/ 2015 sa.pa dated 28.8.2015 returning the petitioner Revision Petition filed U/s.153 of the Tamil Nadu Co-operative Societies Act 1983 assailing the impugned Suspension Order passed by the 2nd respondent in her proceedings dated 23.3.2015 and quash both thereby direct the respondents to reinstate the petitioner with all the arrears of salary and attendant benefits.

For Petitioner : Mr.V.Jeevagiridharan

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader (Co-op)

O R D E R

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

2.The petitioner joined the services of the K.K.45, Sapparthi Primary Agricultural Co-operative Credit Society, Panagamutlu Post, Krishnagiri Taluk and District as a Clerk and was deputed to another society namely, Kaveripattinam Panchayat Union Teachers and Staff Co-operative Thrift and Credit Society as a Secretary - in - charge and he worked in that society till 24.09.2013 and during his tenure in the said society an enquiry was ordered by the first respondent under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 alleging certain discrepancies were found in the accounts and the report of the said enquiry was submitted on 30.06.2014 based on which, the second respondent by issuing a charge memo dated 05.09.2014 initiated disciplinary proceedings and on conclusion of the disciplinary proceedings, mis-appropriation was alleged and the petitioner was also paid the said sum, however, the Enquiry Officer has submitted his report stating that the charges were proved and taking into consideration the payment of the amount, final orders have been passed by the second respondent imposing punishment of stoppage of increment for three years with cumulative effect.

3.However, simultaneously criminal prosecution was also lodged in Crime No.3 of 2015 on the file of the CCIW CID, Krishnagiri for the alleged commission of offences under sections 408 and 477(A) of IPC and the petitioner was also arrested on 20.03.2015 and was in judicial custody for six days and since the period of incarceration exceeded 48 hours, he was placed under deemed suspension and challenging the said order, the petitioner filed W.P.No.19148 of 2015 and vide order dated 01.07.2015, the petitioner was directed to approach the first respondent by invoking the provisions under the Tamil Nadu Co-operative Societies Act, 1983. Accordingly, the petitioner preferred a revision before the first respondent and it was returned vide order dated 28.08.2015 on the ground that revisional jurisdiction can be revoked only in the event of passing final orders. The petitioner challenging the legality of the said order has filed this writ petition.

4. Heard the submissions of Mr.V.Jeevagiridharan, learned counsel appearing for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader (Co-operatives) who accepts notice on behalf of the respondents.

5. It is relevant to extract Section 153(1) of the Tamil Nadu Co-operative Societies Act, 1983, which reads as follows:

"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 proceedings 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 order 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 applicants."

6. The said provision does not contemplate that only in the event of passing final orders, the jurisdiction of the first respondent should be revoked. Hence, on this sole ground the impugned order warrants interference and the matter is to be remanded to the first respondent for fresh consideration.

7. Accordingly, the writ petition is partly allowed and the impugned order dated 28.08.2015 is set aside and the matter is

remanded to the first respondent for fresh consideration and adjudication and the said Official is directed to pass orders on the revision filed by the petitioner on merits and in accordance with law within a period of six weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1 The Joint Registrar of Co-operative Societies,
Krishnagiri.

2 The President
K.K.45, Sapparthi Primary
Agricultural Co-operative Credit Society
Panagamutlu Post
Krishnagiri Taluk and District.

1 CC to Mr.V.Jeevagiridharan, Advocate SR.No. 56076

1 CC to Mr.L.P.Shanmugasundaram, Advocate SR.No. 56297

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AK (CO)
PSI (28.10.2015)

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