

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.35259 of 2015 and M.P.Nos.1 and 2 of 2015

C.Baladhandapani
President, CE 17, Government ITI,
Dharapuram, Tiruppur District ...Petitioner
Vs

1. The Joint Registrar of Co-operative Societies,
Tiruppur
2. CE.17 Dharapuram Public Servants
Co-operative Thrift and Credit Society Ltd.,
50, Alangiam Road,
Dharapuram - 638 656, Tiruppur ...Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the issue of the impugned order Na.Ka.3343/2012/Ve3 dated 15.10.2015 passed by the 1st respondent and quash the same and consequently to direct the respondents 1 and 2 to allow the petitioner to continue as the President of the 2nd respondent.

For Petitioner : Mr.T.Mohan for Mr.C.Yokesh

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

O R D E R

Heard Mr.T.Mohan, learned counsel appearing for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the respondents. With the consent of either side, the Writ Petition itself is taken up for final disposal at the admission stage.

2. The petitioner is a elected President of the 2nd respondent/Society and challenge in this Writ Petition is to an

Order passed by the 1st respondent dated 15.10.2015 in and by which the petitioner has been removed from the post of President.

3.The learned counsel for the petitioner would submit that the impugned order is devoid of jurisdiction and it is out come of total non-application of mind, inasmuch as the 1st respondent fail to take note of the fact that the Board of the Society had reinstated the employee, Sukumar pursuant to the Order passed by the Joint Registrar whereby order of dismissal passed by the petitioner/Society was set aside and the Society was directed to proceed further in the matter.

4. It is further submitted by the learned counsel for the petitioner that after such order was passed by the appellate authority, the Society/petitioner had to obey the same and therefore the said employee Sukumar was reinstated in service and thereafter disciplinary action was initiated against him and once again he has been dismissed from service. It is submitted that merely because the petitioner had complied with the direction issued by the Joint Registrar in exercise of power conferred on him under Section 153 of the Co-operative Society Act by order dated 03.05.2013, he could not be penalised and he cannot be removed from the post of President.

5.The learned Special Government Pleader for the respondents submitted that the petitioner has effective alternative remedy under Section 152 of the Tamilnadu Co-operative Society Act and without availing such remedy, the petitioner ought not to have filed this Writ Petition.

6.After hearing the learned counsel for the petitioner and learned Special Government Pleader for the respondents and perusing the materials placed on record, this Court is inclined to accept the preliminary objection raised by the learned Special Government Pleader that there is a effective alternative remedy under Section 152 of the Act and that the remedy under Section 152 is not only an efficacious remedy but an effective remedy as well. Since the remedy lies before the Head of the Department, namely, the Registrar, Co-operative Society, it is needless to state that the petitioner is entitled to canvass the issue as to whether the 1st respondent has jurisdiction to pass the impugned order and this issue also should be considered by the Registrar, Co-operative Society while considering the petitioner's appeal under Section 152 of the Act.

7.It is seen that in terms of Section 152 (1)(v)(d) of the Act, the appeal lies to the Registrar against the impugned order.

8.In the light of the above, this Writ Petition is disposed of giving liberty to the petitioner to file an Appeal under Section 152 of the Act before the Registrar of Co-operative Society and if such an appeal is filed within a period of 15 days from the date of receipt of copy of the order, the Registrar shall entertain the appeal without reference to limitation and decide the matter on merits and in accordance with law. The petitioner would be entitled to canvass in the appeal that the 1st respondent lacks jurisdiction to pass impugned order and this issue also should be decided by the Registrar. The petitioner is also entitled to move an application for Interim Relief, which shall be considered within a period of two weeks from the date of filing the appeal. Consequently connected miscellaneous petitions are closed. No costs.

sd/
ASSISTANT REGISTRAR(CCC)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

ssd

To

1. The Joint Registrar of Co-operative Societies,
Tiruppur
2. CE.17 Dharapuram Public Servants
Co-operative Thrift and Credit Society Ltd.,
50, Alangiam Road,
Dharapuram - 638 656, Tiruppur

+1 CC to MR.L.P.Shanmughasundaram Advocate. SR.NO.60205
+1 CC to MR.C.Yokesh Advocate. SR.NO. 60270
+1 CC to Govt.Pleader. SR.NO. 61154

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CO-KK

JD 20/11/2015