

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.40206 of 2015 and M.P.No.1 of 2015

C.Siraj

...Petitioner

Vs

1. The Deputy Registrar (Dairying)
O/o the Deputy Registrar (Dairying)
West Sambandam Road,
R.S.Puram, Coimbatore - 2

2. The General Manager,
The Coimbatore District Co-op.
Milk Producers' Union Limited
Pachapalayam,
Kalampalayam post,
Coimbatore - 641 010

...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 1st respondent in his proceedings Tha.Va.Va.No.2/2014-2015/Aa dated 06.07.2015 under Section 87 of Tamilnadu Co-operative Society Act and quash the same and consequently direct the respondents not to take any recovery proceedings against the petitioner.

For Petitioner :Mr.R.Singaravelan for
Mr.V.S.Jagadeesan

For Respondents :Mr.R.Rajeswaran
Special Government Pleader for R1
Mr.T.K.Ashok Kumar for R2

O R D E R

Heard Mr.R.Singaravelan learned counsel for Mr.V.S.Jagadeesan, learned counsel for the petitioner and Mr.R.Rajeswaran, learned Special Government Pleader for 1st respondent and Mr.T.K.Ashok Kumar, learned counsel for 2nd respondent. By consent, the Writ Petition is taken up for final disposal at the admission stage itself.

2. The petitioner challenges the order passed by the 1st respondent under Section 87 of the Tamilnadu Co-operative Society Act, 1983. Though several grounds were sought to be canvassed before this Court, which are factual in nature, there is no satisfactory explanation given by the petitioner to bypass the appellate remedy available to the petitioner under Section 152 of the Act. In terms of the said provision, appeal lies to the Tribunal against the order passed under Section 87 of the Act and the said Tribunal is the Principal District Court of each District, therefore, the Appellate remedy under the Act is not only effective but efficacious. The petitioner is entitled to canvass before the Appellate Tribunal all the points and Appellate Tribunal would be able to re-appreciate the evidence which is available on record.

3. Further more, the allegation that the petitioner was not afforded reasonable opportunity to put forth their case, no opportunity was granted prior to the report being prepared under Section 81 of the Act could also be canvassed before the Tribunal. The Tribunal being a judicial forum is entitled to consider all the matters both factual and legal, therefore, the petitioner is directed to avail the appellate remedy available under Section 152 of the Act.

4. By holding that the Writ Petition is not maintainable, liberty is granted to the petitioner to file an appeal before the Appellate Tribunal. The period of limitation stipulated under Sub-Section 3 of Section 152 of the Act is 60 days and the impugned order is dated 06.07.2015, therefore, as of now, the period of limitation has expired. However, the Tribunal, considering the fact that the order results in civil consequences, can exercise discretion and condone the delay. Furthermore, the period during which the Writ Petition was presented before this Court i.e., on 11.12.2015, till the date of receipt of certified copy of the order should be excluded by computing limitation.

The Writ Petition stands disposed of with liberty as aforesaid. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar (CS II)

//True Copy//

Sub Assistant Registrar

ssd

To

1. The Deputy Registrar (Dairying)
O/o the Deputy Registrar (Dairying)
West Sambandam Road,
R.S.Puram, Coimbatore - 2

2. The General Manager,
The Coimbatore District Co-op.
Milk Producers' Union Limited
Pachapalayam,
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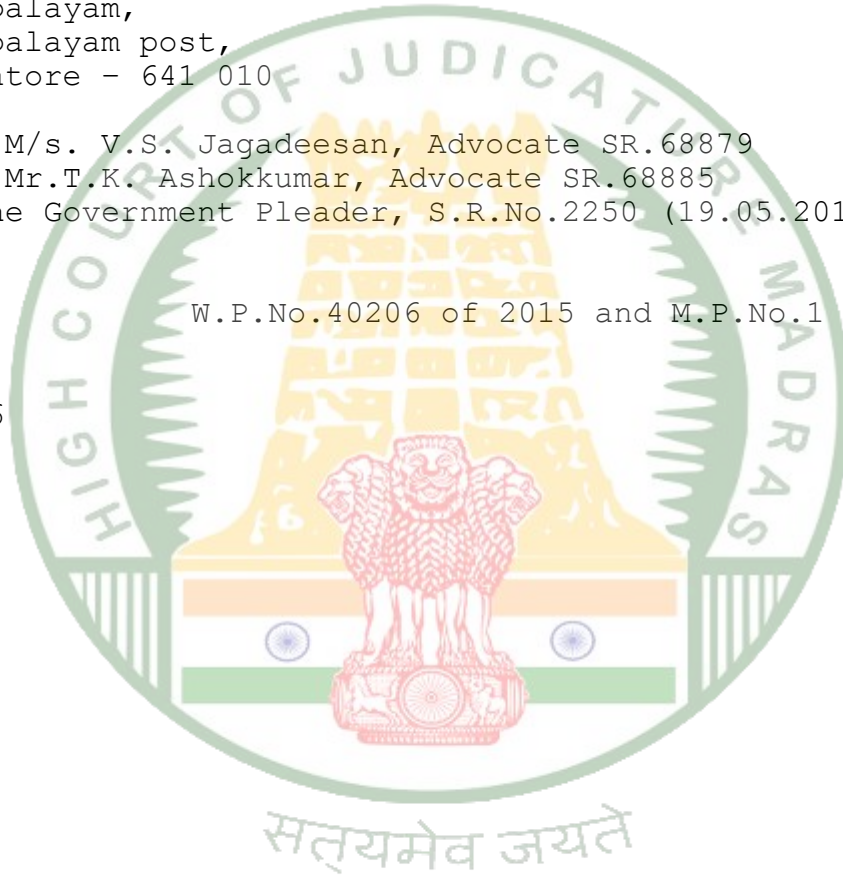
+ 2 cc to M/s. V.S. Jagadeesan, Advocate SR.68879

+ 1 cc to Mr.T.K. Ashokkumar, Advocate SR.68885

+1cc to the Government Pleader, S.R.No.2250 (19.05.2016)

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EU 05.1.16



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