

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 9.11.2017

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.1355 of 2017
and
C.M.P.No.18729 of 2017

R.Paranthaman

Appellant/Petitioner

Versus

1. The Joint Registrar of Co-operative Societies,
Krishnagiri Region, Krishnagiri District.
2. The President,
D.K.84, Varattanapalli Primary Agricultural
Co-operative Credit Society,
Varattanapalli, Krishnagiri Taluk & District.

3. N.V.Anandan

Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 4.7.2017 passed in W.P.No.11332 of 2017 on the file of this court.

WP.11332 of 2017: This Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order dated 05.04.2017 issued by the 2nd respondent herein and quash the same and consequently direct the 1st and 2nd respondents to appoint afresh enquiry officer to conduct the domestic enquiry for the charge memos dated 14.03.2016 31.03.2016 24.04.2016 17.05.2016 10.02.2017 and 24.02.2017 by affording enough opportunity by recording the evidence along with cross examination of the witnesses of the management.

For appellant : Mr.T.Sundaravadanam
For R1 : Mrs.T.Girija, Government Advocate
For R2 : Mr.L.P.Shanmugasundaram,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant,
Mrs.T.Girija, learned Government Advocate for the first

respondent and Mr.L.P.Shanmugasundaram, learned Special Government Pleader, for the second respondent, who take notice on behalf of their respective parties.

2. It appears that with regard to some irregularity alleged to have been committed by the appellant herein, disciplinary proceedings had been initiated and during enquiry, he is said to have moved the appellate authority for engaging a counsel on his behalf to assist him in the enquiry and the same is said to have been rejected by the appellate authority. Challenging the same, the writ petition was filed and the same also came to be dismissed. Hence, he has come up with the present writ appeal.

3. The stand of the learned counsel appearing for the appellant/writ petitioner is since the enquiry officer was a practising advocate, the appellant/writ petitioner sought for legal assistance during enquiry.

4. The first and foremost thing to be appreciated is that writ jurisdiction is not the appropriate forum for the appellant since the relief sought for is against a Co-operative Society. This aspect has also been appreciated by the learned Single Judge by relying upon the ratio laid down in MARIAPPAN v. DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES, NAMAKKAL (2006 (4) CTC 689). Therefore, on that score, we do not find any reason to interfere with the order passed by the learned Single Judge.

5. Apart from the above, it has been brought to our notice that subsequently, the enquiry came to an end and he was removed from service. In view of the subsequent development, the petitioner is left with the option only to move the appellate authority challenging the final order by which he was removed from service.

6. It is the stand of the learned counsel appearing for the appellant that the Enquiry Officer being a law knowing person, the appellant ought to have been permitted to engage a counsel on his behalf and hence, the entire enquiry that has been conducted is vitiated and hence, he seeks indulgence of this court.

7. Be that as it may, as of now, there is no dispute that the enquiry is completed and he has been removed from service. It is well open to the appellant/writ petitioner to exhaust his remedy before the appellate authority challenging the final order passed by the disciplinary authority. It is also open to the appellant to raise all his contentions including the denial of opportunity to engage an Advocate to assist him during enquiry, before the appellate authority. The order under

challenge before us being an order passed by the learned Single Judge relating to rejection of the claim of the appellant to engage a counsel to assist him, we are of the view that no relief could be granted to the appellant in this writ appeal.

8. With the above observation, the writ appeal is disposed of. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssk.
To:

1. The Joint Registrar of
Co-operative Societies,
Krishnagiri Region,
Krishnagiri District.
2. The President,
D.K.84, Varattanapalli Primary Agricultural
Co-operative Credit Society,
Varattanapalli, Krishnagiri Taluk & District.

+1cc to Government Pleader SR.No.80097
+1cc to M/s.T.Sundaravadanam, Advocate SR.No.79649
+1cc to M/s.L.P.Shanmugasundaram, Advocate SR.No.79582

RSI (CO)
sm:15.12.2017

W.A.No.1355 of 2017

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