

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.09.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.11150 of 2016

and WMP.Nos.9684 & 9685 of 2016 & 25609 of 2016

V.Velliyangiri

.. Petitioner

Vs

1. The Deputy Registrar of Co-operative Societies,
Tindivanam Circle, Tindivanam,
Villupuram District.
2. F.V.15, Naduvanandhal Primary
Agricultural Co-operative Credit Society Limited,
Rep. By its President,
Naduvanandhal, Tindivanam Taluk,
Villupuram District.

...Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari calling for the records of the order passed in Na.Ka.414/2016. Tho.Ve.Sa. Dated 22.02.2016 and signed on 16.03.2016 on the file of the 1st respondent and consequential order of reversion passed by the 2nd respondent dated 22.03.2016 quash the same.

For Petitioner : Mr.M.S.Palaniswamy

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader (Co-op)
(for R1)

Mr.G.Mohan Raj (for R2)

ORDER

The order dated 22.02.2016 issued by the first respondent and the consequential order issued by the second respondent in proceeding dated 22.03.2016 are under challenge in this writ petition.

2.The writ petitioner was appointed as an attender in the second respondent society on 07.05.1990 and further promoted to the post of clerk on 01.12.1998. The petitioner was further granted promotion to the post of Assistant Secretary on 11.05.2001. However, the first respondent found during the verification of the records of the Co-operative Society, that the promotion granted in favour of the writ petitioner was irregular and accordingly issued a direction to the management of the second respondent Co-operative Society to initiate action against the writ petitioner for cancellation of the promotion granted in favour of the writ petitioner. Pursuant to the directions issued by the first respondent, the second respondent passed an order in proceeding dated 22.03.2016.

3.This being the factum of the case this Court has to examine in relation to the maintainability of the writ petition in the light of the Judgment of the larger bench of this Court in its decision reported in 2006 (4) CTC 689 (K.Marappan Vs. The Deputy Registrar of Co-operative Societies, Namakkal).

4.The first order challenged is an order passed by the Deputy Registrar Co-operative Societies in proceeding dated 22.02.2016. The learned counsel for the writ petitioner made a submission that since the order challenged was issued by the first respondent, who is the competent authority under the Act, the writ petition is maintainable. However this Court is of the opinion that it is an internal communication issued by the first respondent to the second respondent. The Co-operative Society is an independent body registered under the provisions of the Tamil Nadu Co-operative Societies Act and Co-operative Society is not a state within the meaning of Article 12 of the Constitution of India. The controlling authority under the Act is the Registrar of Co-operative Societies and all such Co-operative Society in the state are controlled by virtue of the powers conferred under the provisions of the Tamil Nadu Co-operative Societies Act. Thus, such an order passed by the competent authority under the Act cannot be construed as an order passed by the higher authority of the employees of the Co-operative society. This apart, the writ petition is filed challenging the internal communication issued by the Deputy Registrar only with an idea to maintain the writ petition and to over come the legal principles settled by the larger bench of this Court. When the larger bench

of this Court settled the legal principles by stating that the Co-operative Society is not a state and no writ proceedings can be entertained against the order passed by the Co-operative Societies, these kind of writ petitions are filed in order to circumvent the principles laid down by the larger bench of this Court. Such a practise cannot be accepted by this Court and it is for the employees to properly approach the competent authorities under Section 153 of the Tamil Nadu Co-operative Societies Act by filing a revision petition challenging the order passed by the management of the Co-operative Society and thereafter file a writ petition before this Court under Article 226 of the Constitution of India.

5.The litigants cannot be permitted to prefer a short cut route with regard to the maintainability of the writ petition and all the employees of the Co-operative Societies should have a straight approach in this regard by filing a revision petition and by exhausting the remedy available under the Co-operative Societies Act. In this view of the matter, this Court is of the view that the order passed by the first respondent is not an order issued by the 4th respondent-Management, to the writ petitioner. However, it is a direction issued to the management by the Co-operative Societies and the same will not provide a cause to the writ petitioner to file this writ petition and maintain the same, otherwise, the order impugned in the writ petition is not maintainable in view of the legal principles settled by the Larger Bench in this regard.

6.Accordingly, it is left open to the writ petitioner to file proper revision petition under Section 153 of the Tamil Nadu Co-operative Society Act challenging the order passed in proceeding dated 22.03.2016 and after exhausting the remedy, if he is so aggrieved, thereafter he can move this Court under Article 226 of the Constitution of India. Thus, no further adjudication on merits needs to be undertaken in this writ petition.

7.Accordingly the writ petition stands dismissed as not maintainable. No costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

sjj/rpa

To

1. The Deputy Registrar of Co-operative Societies,
Tindivanam Circle, Tindivanam,
Villupuram District.
2. The President,
F.V.15, Naduvanandhal Primary
Agricultural Co-operative Credit Society Limited,
Naduvanandhal, Tindivanam Taluk,
Villupuram District.

+1 CC to Government Pleader, High Court, Chennai Sr.No.70801

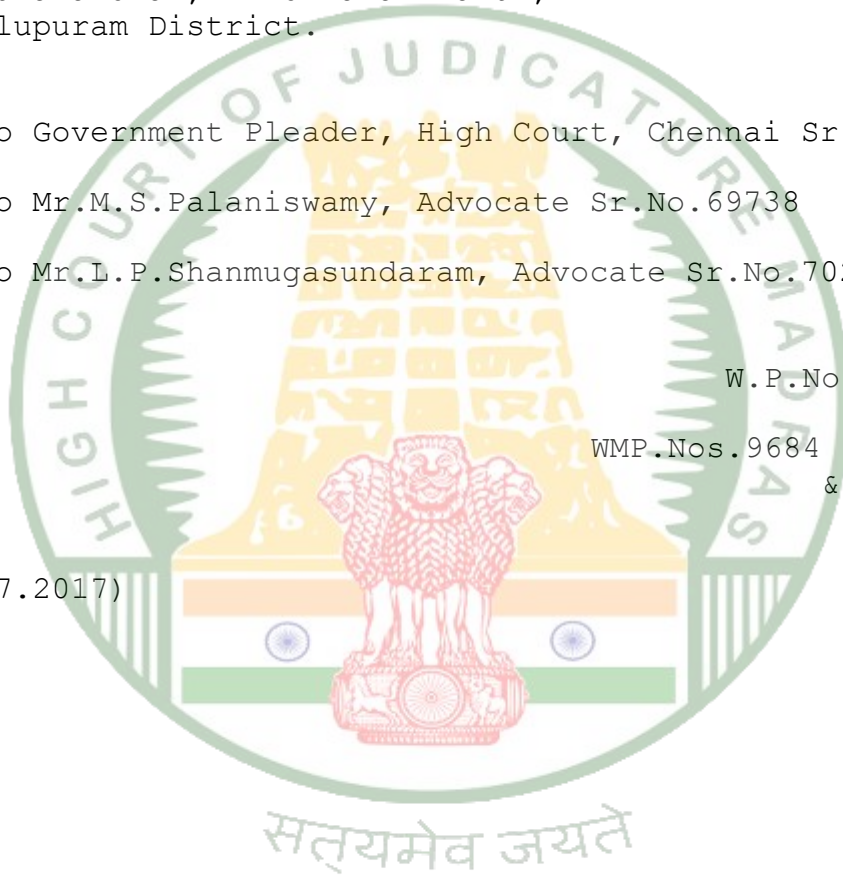
+1 CC to Mr.M.S.Palaniswamy, Advocate Sr.No.69738

+1 CC to Mr.L.P.Shanmugasundaram, Advocate Sr.No.70202

W.P.No.11150 of 2016
and

WMP.Nos.9684 & 9685 of 2016
& 25609 of 2016

MN (CO)
KP (26.07.2017)



WEB COPY