

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.04.2017
CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 13317 of 2014
and
M.P. No. 1 of 2014

R. Dhanakotti

.. Petitioner

Vs.

1. The Joint Registrar of
Co-operative Society
Thiruvannamalai Region
Thiruvannamalai District.
2. The Deputy Registrar of Co-operative
Society cum Arbitrator
Thiruvannamalai Circle
Thiruvannamalai District.
3. Periyakollappadi Primary Agricultural
Co-operative Bank
rep. By its Secretary
H.H. 495 Periyakollapadi
Village & Post
Chengam Taluk
Thiruvannamalai District.
4. Tmt. Roja (Election Officer)
Assistant
Thiruvannamalai Central
Co-operative Society
Thiruvannamalai District.

5. Thiru R.J. Ayyanar .. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the order of the 1st respondent in Revision Petition No.10 of 2013 (Na.Ka.6791/2013/Sa.Pa) dated 21.04.2014 and to quash the same, consequently direct the 1st respondent to dispose the above Revision Petition after providing sufficient opportunity and pass further orders.

For Petitioner : Mr. P. Satheesh Kumar

For Respondents : Mrs. T. Giriya,
Government Advocate for R1 to R4

Mr. S. Venkataraman for R5

O R D E R

The petitioner has filed the present writ petition, seeking to quash the order of the 1st respondent in Revision Petition No.10 of 2013 (Na.Ka.6791/2013/Sa.Pa) dated 21.04.2014 and to consequently direct the 1st respondent to dispose the above Revision Petition after providing sufficient opportunity.

2. Brief facts of the case is as follows :-

The petitioner was elected as a President of the 3rd respondent Society, namely, Periyakollapadi Primary Agricultural Co-operative Society on 23.04.2013. The 5th respondent contested in the election and lost in the election. He filed a petition before the Deputy Registrar-cum-Arbitrator to disqualify the petitioner, in the post of President, alleging that the petitioner is a close relative of the Secretary of the Society. The 2nd respondent dismissed the Claim Petition by his order dated 30.07.2013. Aggrieved by the said order, the 5th respondent filed a revision petition under Section 153 of the Tamilnadu Co-operative Society Act, 1983, before the 1st respondent. During the pendency of the petition, the 5th respondent filed the relationship certificate, issued by the Tahsildar stating that the petitioner is a close relative of the Secretary to the Society. Accepting the said certificate issued by the Tahsildar, the 1st respondent, allowed the Revision Petition, filed by the 5th respondent. Against the said order, the petitioner has filed the present writ petition before this Court, mainly on the ground that acceptance of the said certificate of relationship issued by the Tahsildar, is in violation of principles of natural justice. Further, the petitioner also questions the genuineness of the relationship certificate issued by the Tahsildar. Further, it is contended that copy of the said relationship certificate was neither served by the 5th respondent nor the revisional authority. Therefore, without furnishing a copy of the said certificate and without providing an opportunity to the petitioner to explain his case, straight away the revision petition was allowed. Hence, the impugned order passed by the revision authority is erroneous and illegal.

3. Per contra, learned counsel for the 5th respondent would submit that the petitioner did not object his case before

the revisional authority and so now the petitioner cannot raise all these objections, in the present writ petition, before this Court. Hence, no order is warranted by this Court.

4. Heard the rival submissions of the learned counsel for the parties and perused the material available on record.

5. The points that could be considered by this Court is whether the petitioner was provided with an opportunity, by furnishing a copy of the relationship certificate issued by the Tahsildar, before passing the impugned order. According to the petitioner, the revision petition filed by the 5th respondent during September 2013. The relationship certificate was issued by the Tahsildar in the month of December 2013. A copy of the said certificate has not been served to the petitioner, either by the 5th respondent or the revisional authority and the petitioner was kept in dark, about filing the said certificate before the authorities. The petitioner came to know about the same, after the order passed by the Revisional Authority. Thus, the revisional authority, without providing an opportunity to the petitioner has allowed the revision petition, on the basis of the relationship certificate issued by the Tahsildar. It is contended by the petitioner that validity of the relationship certificate is a disputed fact. Whether the Tahsildar has the authority to issue such a certificate, is the first question. Secondly, the petitioner has stoutly denied the relationship between him and the Secretary of the Society. If an opportunity is provided to the petitioner, the said factum of relationship can be disproved before the authority. It is seen from the records that the Deputy Registrar has dismissed the claim petition, but the revisional authority has allowed the revision petition on the basis of relationship certificate issued by the Tahsildar without furnished copy of the Certificate.

6. Therefore, prima facie , I am of the view that the impugned order passed by the 1st respondent, without providing an opportunity to the petitioner, would amount to violation of principles of natural justice. On this ground alone, I am inclined to interfere with the impugned order passed by the 1st respondent and the same is liable to be quashed. Learned counsel for the respondent would submit that since the petition has been filed in the year 2014, this Court may direct the authorities to dispose of the Revision within a stipulated time. Considering the facts and circumstances of the case, I am inclined to pass the following order :

- i. the impugned order of the 1st respondent in Revision Petition No.10 of 2013 (Na.Ka.6791/2013/Sa.Pa) dated 21.04.2014 is set aside and the matter is remanded back to the 1st respondent to decide the issue afresh.
- ii. The 1st respondent is directed to furnish a copy of the said relationship certificate, issued by the Tahsildar, to the petitioner within two weeks from the date of receipt of a

copy of this order.

iii. On furnishing such certificate, the petitioner is permitted to file his objection within a period of four weeks.

iv. Thereafter, the 1st respondent is directed to pass final orders on merits and in accordance with law, after providing opportunity to the parties as expeditiously as possible.

7. With the above direction, the writ petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Joint Registrar of
Co-operative Society
Thiruvannamalai Region
Thiruvannamalai District.
 2. The Deputy Registrar of Co-operative
Society cum Arbitrator
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 3. The Secretary
Periyakollappadi Primary Agricultural
Co-operative Bank
H.H. 495 Periyakollappadi Village & Post
Chengam Taluk, Thiruvannamalai District.
- +1 cc to Mr.P.Satheeshkumar Advocate sr 22966
+1 cc to Mr.S.Venkataraman Advocate sr 22852
+1 cc to the government Pleader sr 22842

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aa25/04/2017