

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.16814 of 2015
and
M.P.Nos.1 and 2 of 2015

C.Loganathan

.. Petitioner

vs.

1. The Secretary
Co-operative Societies Department,
Secretariat, Puducherry.
2. The Registrar of Co-operative Societies,
O/o. The Registrar of Co-operative Societies,
VVP Nagar, Puducherry 605 009.
3. The Deputy Registrar of Co-operative Societies,
O/o. The Deputy Registrar of Co-operative Societies,
Perunthalaivar Kamarajar
Administrative Complex,
Ammalchathiram, neravy post,
Karaikkal-609 604.
4. M/s. Karaikal PWD Staff Co-operative
Credit Society Ltd., (Regn.No.445)
No.155-E, Mada Koil Street
Karaikal.

.. Respondents

(R4 impleaded as per order dated
07.08.2015 made in M.P. No 3/2015
in W.P.No.16815/2015)

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of the 2nd respondent in his proceedings No. 5/11/1/12/RCS/PLG /A/2001/Vol.II /169 dated 13.05.2015 and the election notification dated 21.06.2015 and quash the same.

For Petitioner : Mr.Babu Rangasamy for
Ms. Babu Rangasamy Associates

For Respondents : Mr.B. Nambiselvan
Addl. Govt. Pleader (Pondicherry)
for R1 to R3
Mr. Ayangara Prabhu for R4.

ORDER

This writ petition has been filed seeking to quash the proceedings of the 2nd respondent in No. 5/11/1/12/RCS/PLG/A/2001/ Vol.II/169 dated 13.05.2015 and the election notification dated 21.06.2015.

2. The learned counsel for the petitioner submitted that the petitioner was working as a multi task staff in the Karaikal Public Works Department and a member of the Staff Co-operative Credit Society Ltd. The proposal for amendment of the by-law 31(2) by reducing the 4 directors from the Multitasking staff was opposed by the Multitasking staff members of the society. Whiles, on 27.12.2014, a Special General Body Meeting was convened and the Management committee placed the very same by-law amendment and passed a resolution to that effect, without considering the request of the 3rd respondent. At the request of the members of the society, extended the tenure of the Management committee and advised to get approval of the members of the society for the by-law amendment. Thereafter, the 2nd respondent approved the amendment of the by-laws, as recommended by the management committee on 13.05.2015. Subsequent to the approval granted by the 2nd respondent, the society has declared elections to be held on 21.06.2015, for the post of 9 Directors from all cadres in the Public Works Department. Aggrieved by the approval granted by the 2nd respondent, this writ petition has been filed.

3. According to the petitioner, the approval of the amendment of by-law 32(1) has been done without following the statutory provisions of the Pondicherry Co-operative Societies Act, 1972. According to the petitioner, there is no efficacious alternative remedy and hence he has approached this Court.

4. Counter affidavit has been filed by the respondents. On the basis of the counter affidavit, the learned Additional Government Pleader representing the respondents would submit that there is an alternative efficacious remedy available to the petitioner to file an appeal before the Tribunal, under Section 140 (2)(a) of the Puducherry Cooperative Societies Act, 1972. However, the petitioner has preferred the present writ petition, without exhausting the alternate remedy. So the present writ petition is not maintainable and the same is liable

to be dismissed.

5. It is seen that under Section 140 (2)(a) of the Puducherry Cooperative Societies Act, 1972, wherein it is stated that, any person aggrieved by any decision, inter alia, under Section 11 (which deals with amendment of bye-laws of the registered society) may appeal if such approval is that of the Registrar of Co-operative Societies for Puducherry to the Government or any other person to the Registry. By way of explanation, it is stated that in this clause "person aggrieved" means in relation to Section 11, the registered society.

6. In view of the above said provisions in the Act, as the petitioner has raised a disputed fact in the writ petition and since an appeal remedy is available under the Act, this Court is not inclined to entertain this writ petition, filed under Article 226 of the Constitution of India. Further, as per the principles of law settled by this Court as well as the Hon'ble Supreme Court, this writ petition is dismissed as not maintainable. However, the petitioner is at liberty to file an appeal, within a period of four weeks from the date of receipt of a copy of this order. If any appeal is received within the aforesaid period, the 1st respondent is directed to consider the same and pass orders on merits, in accordance with law, as expeditiously as possible.

7. The writ petition is dismissed, on the above terms. Consequently, the connected Miscellaneous Petitions are closed. No order as to costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

avr

To

1. The Secretary
Co-operative Societies Department,
Secretariat, Puducherry.
2. The Registrar of Co-operative Societies,
O/o. The Registrar of Co-operative Societies,
VVP Nagar, Puducherry 605 009.

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3. The Deputy Registrar of Co-operative Societies,
O/o. The Deputy Registrar of Co-operative Societies,
Perunthalaivar Kamarajar
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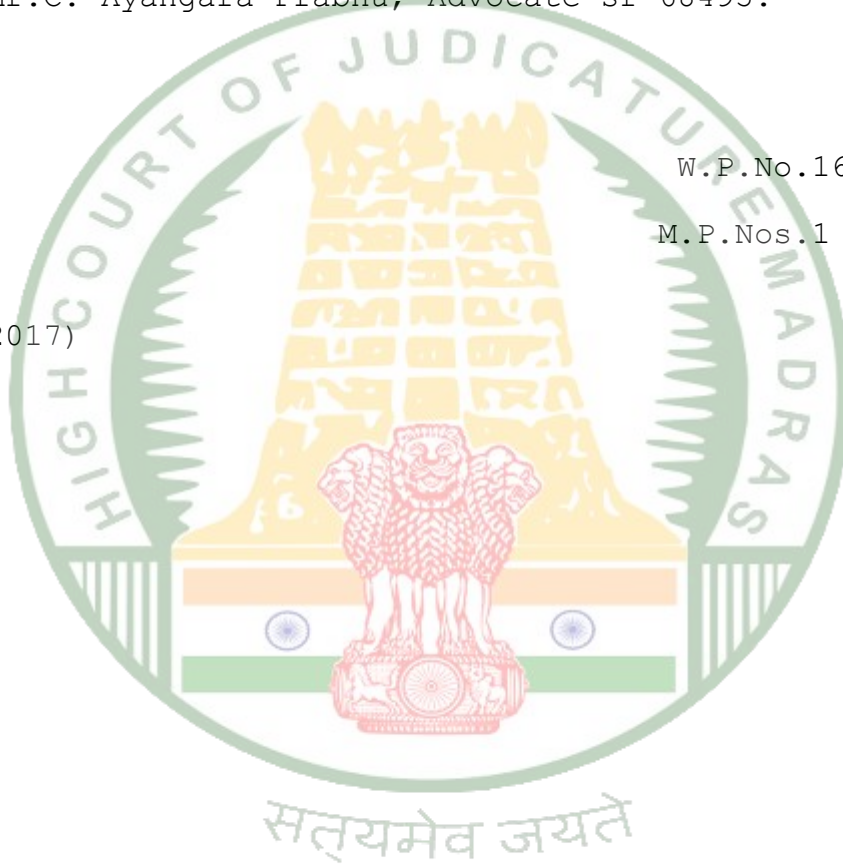
+1 CC to Ms. Babu Rangasamy, advocate sr 67910.

+1 CC to Govt. Pleader sr 68024.

+1 CC to Mr.C. Ayangara Prabhu, Advocate sr 68495.

W.P.No.16814 of 2015
and
M.P.Nos.1 & 2 of 2015

VGI (CO)
SP (07/12/2017)



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