

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.16904 of 2015

&

M.P.No.1 of 2015

P.Mathiyazhagan

... PETITIONER

Vs

1.The Joint Registrar of Co-operative Societies
Salem Region, Salem.
Salem District.

2.The President
S,411, Suramangalam Primary Agricultural
Co-op. Credit Society
Suramangalam
Salem 5.

... RESPONDENTS

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the entire records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.No.4620/2015/Sa.Pa., dated 03.06.2015 and quash the same consequently direct the first respondent to entertain the Statutory Revision and dispose the same on merits.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmuga Sundaram
Special Government Pleader

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O R D E R

The relief sought for in this Writ Petition is to quash the order of rejection passed by the first respondent in his proceedings dated 03.06.2015, and to direct the first respondent to entertain the Statutory Revision filed by the writ petitioner, under section 153 of the Tamil Nadu Co-Operative Societies Act (in short 'Act') and dispose the same on merits.

2. When the writ petitioner was working as Salesman in Ariyagoundenpatti Fair Price Shop, a Family Card holder, came to the Fair Price Shop for purchase of essential commodities and the said Family Card Holder picked up a quarrel with the employees of the Fair Price Shop and due to illness, the Card Holder fell down and died on the spot. The Inspector of Police, Suramangalam Police Station, registered a case based on the post-mortem report, wherein it was concluded that the death of the Family Card Holder was natural. However, the relatives of the deceased Family Card Holder approached this Court for CBCID enquiry and as directed by this Court, the CBCID Wing registered a case against the writ petitioner under section 302 (ii) r/w 109 IPC and the Court of Sessions, convicted the writ petitioner to undergo imprisonment for ten years. Aggrieved over the said order, the writ petitioner preferred a Criminal Appeal before this Court and during the pendency of the Criminal Appeal, this Court suspended the conviction and sentence, as evident from the copy of the un-numbered Revision Petition filed by the writ petitioner before the Joint Registrar of Co-Operative Societies, Salem Region, Salem. For the aforesaid reasons, the writ petitioner was placed under suspension by initiating disciplinary proceedings.

3. As against the order of suspension, the petitioner preferred a Revision Petition under section 153 of the Act on 25.05.2015. However, the said Revision Petition was rejected by the first respondent by his proceedings dated 03.06.2015, on the ground that the Revision under section 153 shall be filed only against the final orders passed by the Management of a Co-Operative Society.

4. This Court is not inclined to go into the merits and demerits of the case of the writ petitioner. The issue to be considered in this Writ Petition is as to whether the Revision Petition filed for revocation of the suspension order under section 153 of the Act shall be entertained or not ?

5. The first respondent in this case rejected the Revision Petition on the ground that the order of suspension is not a final order in the disciplinary proceedings and therefore, no revision can be entertained under section 153 of the Act. In this context, it is relevant to consider the very spirit of Section 153 of the Act. Section 153 of the Act, reads as follows:

"153. Revision._ (1) The Registrar may of his own motion or on application, call for and examine the record of any officer subordinate to him or of the board or any officer of a registered society or of the competent authority constituted under sub-section (3) of section 75 and the Government may, of their own

motion or on application, call for and examine the record of the Registrar, in respect of any proceedings under this Act or the rules or the by-laws not being a proceedings in respect of which an appeal to the Tribunal is provided by sub-section (1) of section 152 to satisfy himself or themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any decision passed or order made therein; and, if, in any case., it appears to the Registrar or the Government that any such decision or order should be modified, annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly;

Provided that every application to the Registrar or the Government for the exercise of the powers under this section be preferred within ninety days from the date on which the proceedings, decision or order to which the application relates was communicated to the applicant.

(2) No order prejudicial to any person shall be passed under sub-section (1) unless such person has been given an opportunity of making his representation.

(3) The Registrar or the Government, as the case may be, may suspend the execution of the decision or order pending the exercise of his or their power under sub-section (1) in respect thereof.

(4) The Registrar of the Government may award costs in any proceedings under this section to be paid either out of the funds of the society or by such part to the application for revision as the Registrar or the Government may deem fit."

6.The above provision is categorical and unambiguous in nature, by stating that the Registrar of Co-operative Societies may on his own motion or on application call for and examine the record of any officer subordinate to him or of the board or any officer of a registered society or of the competent authority constituted under sub-section (3) of section 75 of the Act and the Government may, on their own motion or on application, call for and examine the record of the Registrar, in respect of any proceedings under this Act or the rules or the by-laws not being a proceeding in respect of which an appeal to the Tribunal is provided by sub-section (1) of section 152 of the Act to satisfy himself or themselves as to the regularity of such proceedings, or the correctness, legality or propriety of any decision passed or order made therein; and, if, in any case, it appears to the Registrar or the Government that any such decision or order

should be modified, annulled, reversed or remitted for reconsideration, he or they may pass orders accordingly.

7. The provision is very clear that the first portion of section 153 of the Act reveals that the Registrar of Co-Operative Societies is competent to initiate action on his own motion or on application. The second portion states that the Government may on their own motion or on application, call for and examine the record of the Registrar. The two limbs of the section are that (i) the Registrar of Co-Operative Societies is competent to call for records and examine the same, take a decision in respect of his subordinates and the Management of the Co-operative Societies within his jurisdiction and (ii) the Government may call for the records and examine the same and take a decision in respect of the orders passed by the Registrar of the Co-Operative Societies. The scope of Section 153 of the Act is very wide in nature and the Registrar may on his own motion or on application call for any records or the order passed by the subordinates or the Management of the Co-operative Societies. Section 153 of the Act further clarifies that the Registrar has got powers to call for any records. Thus, it is very clear that even if no final orders/ no orders are passed by the Management of the Co-Operative Societies, the Registrar, may invoke the powers conferred on him under section 153 of the Act.

8. In this regard, it is relevant to note that the powers of the Registrar of the Tamil Nadu Co-Operative Societies under the Act has been delegated to the Joint Registrars of the Tamil Nadu Co-Operative Societies to entertain the Revision under section 153 of the Act and take a decision on all the issues relating to the service conditions of the employees of the Co-Operative Societies. The power of delegation was granted by way of Notification issued by the Government of Tamil Nadu under the provisions of the Act.

9. This Court is of the firm view that all the Regional Joint Registrars exercising the powers of the Registrar under section 153 of the Act are bound to consider the the Revision Petitions filed by the aggrieved employees of the Co-Operative Societies, even if no final order /no order has been passed. In other words, in all circumstances, if any Revision Petition is filed, in order to redress the grievances, it is the duty mandatory on the part of the Joint Registrars concerned to call for the records from the Societies concerned and conduct enquiry by providing opportunities to the parties and thereafter take a decision and communicate the same to all the parties to the Revision Petition. The procedure to be followed has also been well defined in the Act and the Rules. This being the fact, the Regional Joint Registrars of Co-Operative Societies concerned

are not entertaining the Revision Petitions on the ground that no final order/ no order has been passed by the Management of the Co-Operative Societies concerned. Contrarily, the Revision Petition can be entertained even if no final order/no order has been passed by the Management.

10.The Scope of Section 153 of the Act is very wide in nature and such a provision is enacted by the legislature in order to provide an opportunity to the employees of the Co-operative Societies to redress their grievances before the competent authorities. The Larger Bench of this Court in Marappan and others Vs. Deputy Registrar of Co-operative Societies, Namakkal [2006 (4) CTC 689] had taken a decision that no writ will lie against the actions initiated by the Co-Operative Society under Article 226 of the Constitution of India. Thus, the Revision under Section 153 of the Act is an effective alternate remedy available to the employees of the Co-Operative Societies and therefore, they should not be deprived of the opportunity of exhausting the remedy available under section 153 of the Act.

11.Thus, the provisions under the Act is very clear that the Joint Registrar of the Co-Operative Societies exercising the powers under section 153 of the Act has no option, but, to entertain the Revision Petitions and hear the same and pass orders in accordance with law. They cannot reject the Revision Petition simply on the ground that the Revision Petition is not filed against the final orders or otherwise.

12.It is brought to the notice of this Court that most of the Regional Joint Registrars of the Co-Operative Societies are rejecting the Revision Petitions simply on the ground that no order/ no final order, has been passed by the Management of the Co-operative Societies. Such a rejection order is absolutely perverse and directly in violation of the very letter and spirit of Section 153 of the Act. It is the duty of the Registrar of Co-operative Societies to review all such orders and issue suitable directions to all the subordinate officials to entertain the Revision Petitions filed under section 153 of the Act and decide the same on merits and in accordance with law.

13.This Court is also flooded with number of writ petitions with the grievance that the Revision Petitions are not decided on merits and they were simply rejected by the Regional Joint Registrars on the ground that no final order / no order has been passed by the Management of the Co-Operative Society concerned. Thus, it is for the Registrar of the Co-Operative Societies to correct all these irregularities being committed by the Regional Joint Registrars while dealing with the Revision Petitions filed by the aggrieved employees under section 153 of the Act.

14. In this view of the matter, the order impugned in this Writ Petition passed by the first respondent in proceedings dated 03.06.2015, is quashed and the matter is remitted back to the first respondent to re-consider the issue by taking the Revision Petition on file and to consider the same on merits and in accordance with law, by providing opportunities to all the parties concerned and pass final orders, within a period of twelve weeks from the date of receipt of a copy of this order.

15. The Writ Petition stands allowed on the above terms. No costs. Consequently, connected Miscellaneous Petition stands closed.

Taking note of the fact that huge number of Writ Petitions are filed before this Court in this nature, more specifically, in relation to the dismissal of the Revision Petitions on the ground that no final order/no order has been passed by the Management of the Co-operative Societies concerned, the Registrar of Co-Operative Societies, N.V.M. Natarajan Maligai, Kilpauk, Chennai 600 010, is directed to issue suitable Circulars to all the Regional Joint Registrars of Co-Operative Societies to entertain the Revision Petitions filed by the aggrieved employees of the Co-Operative Societies under section 153 of the Act, conduct proper enquiry and after affording opportunities to the parties concerned, pass order on merits and in accordance with law. Such a Circular shall be communicated to all the Regional Joint Registrars of Co-Operative Societies, within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the Registrars of Co-Operative Societies, is directed to submit a report of compliance to the Registrar General of the High Court of Madras, in this regard.

Post for compliance after six weeks.

Sd/-

Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

rpa

To

1. The Joint Registrar of Co-operative Societies
Salem Region, Salem.
Salem District.

2.The President
S,411, Suramangalam Primary Agricultural
Co-op. Credit Society
Suramangalam, Salem 5.

3.The Registrar of Co-Operative Societies,
N.V.M.Natarajan Maligai,
Kilpauk, Chennai 600 010.

Copy To

1.The Registrar of Co-Operative Societies,
Salem Region, Salem,
Salem District.

2.The Registrar General,
High Court, Madras.

3.The Section Officer,
Legal Cell,
High Court, Madras.

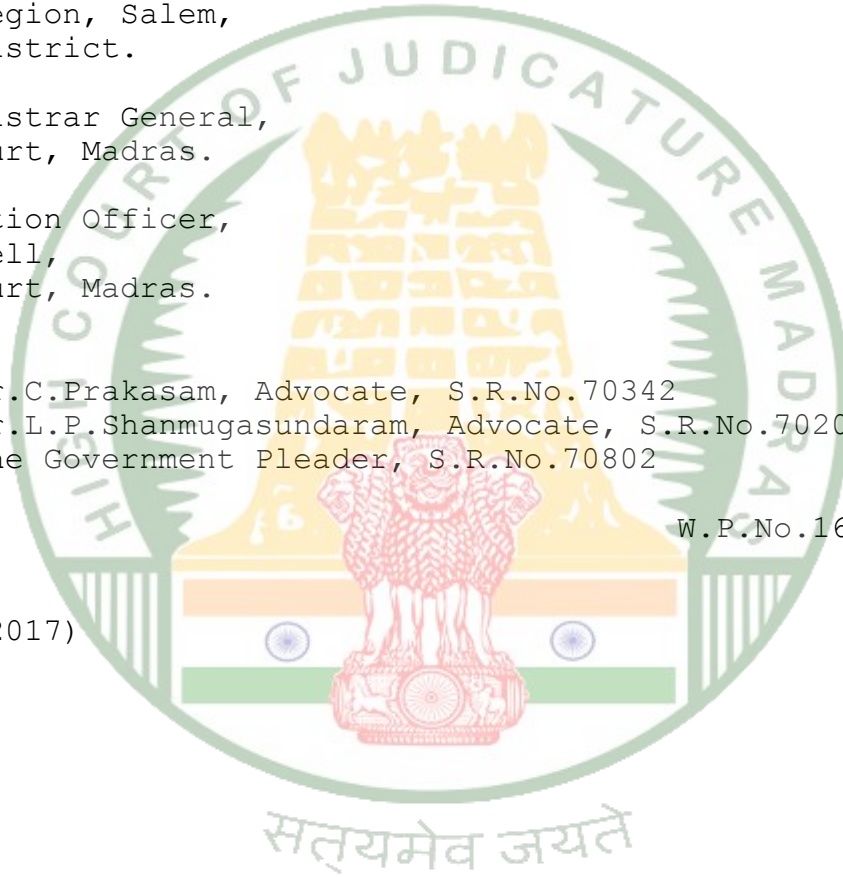
+1cc to Mr.C.Prakasam, Advocate, S.R.No.70342

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.70200

+1cc to the Government Pleader, S.R.No.70802

W.P.No.16904 of 2015

MR(CO)
CA(09/10/2017)



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