

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.10.2017

CORAM

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

W.P.No.25382 of 2014

K.Saravanan

..Petitioner

vs

1.Joint Registrar of Cooperative Societies,
Erode Region,
Erode (Po) & (Dt)

2.Managing Director,
Gopichettypalayam Agricultural
Producers Cooperative Marketing
Society Ltd,
36, Modachur Road,
Gobichettypalayam (Po) & (Dt)
Erode (Dt) Pin:638 476.

3.P.K.Murugayyal
Salesman
Gopichettypalayam Agricultural
Producers Cooperative Marketing
Society Ltd,
36, Modachur Road,
Gobichettypalayam (Po) & (Dt)
Erode (Dt) Pin:638 476.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating of the First Respondent relating to his order No.Rc.1665/2014 Sa.Pa.dated 15.05.2014 and quash the same and consequently direct him to consider the revision petition dated 31.12.2013 of the Petitioner and to pass orders in accordance with law.

For Petitioner :M/s.P.Anbarasan

For Respondents:Mr.L.P.Shanmugasundaram
Special Government Pleader for RR1 & 2
(Co-operatives)
NA-R3

O R D E R

The order of rejection issued by the 1st respondent in proceedings dated 15.05.2014 is under challenge in this writ petition.

2.The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was working as salesman in Co-operative society from the year 1987. The petitioner has completed Higher Secondary Course and further, he has undergone the training in Co-operation and accordingly he was qualified for promotion to the post of Junior Assistant. However, the claim of the writ petitioner has not been considered by the management of the Co-operative Society and against the decision of the Co-operative Society, the writ petitioner has preferred a Revision under Section 153 of the Co-operative Societies Act before the 1st respondent herein. The 1st respondent rejected the Revision Petition on the ground that he has no power to adjudicate the Revision Petition filed by the petitioner. The decision taken by the 1st respondent is erroneous and directly in violation of Section 153 of the Tamil Nadu Co-operative Societies Act. The scope of Section 153 of the Revision Petition is well defined in the very provision itself and 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."

3. 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.

4. 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.

5. 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.

6. 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 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.

7. 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.

8.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.

9.In view of the above discussion, the order impugned in this writ petition passed by the 1st respondent in proceedings in No.Rc.1665/2014 Sa.Pa. dated 15.05.2014 is quashed and the 1st respondent is directed to reconsider the Revision Petition filed by the writ petitioner and pass appropriate orders on merits and in accordance with law, by providing opportunity to the parties concerned within a period of twelve weeks from the date of receipt of a copy of this order.

10.Accordingly, the writ petition stands allowed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS VI)

// True Copy//

Sub Assistant Registrar

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To

1.Joint Registrar of Cooperative Societies,
Erode Region,
Erode (Po) & (Dt)

2.Managing Director,
Gopichettypalayam Agricultural
Producers Cooperative Marketing
Society Ltd,
36, Modachur Road,
Gobichettypalayam (Po) & (Dt)
Erode (Dt) Pin:638 476.

+1cc to Mr.P.Anbarasan, Advocate SR.No.74388
+1cc to Government Pleader SR.No.75283

W.P.No.25382 of 2014

PVS (CO)
GN(27/11/2017)