

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17-08-2017

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.6215 of 2015

And

M.P.Nos.1 and 2 of 2015

M.Chokkalingam

.. Petitioner

vs.

1.The Deputy Registrar of Co-operative Societies,
Tiruvallur Circle,
Collectorate Compound,
Tiruvallur,
Tiruvallur District.

2.The President,
G.T.95, Palavakkam Primary Agricultural
Co-operative Credit Society,
Palavakkam Village and Post,
Uthukottai Taluk,
Tiruvallur District.

.. Respondents

This Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.No.318/2015/E2, dated 23.2.2015 and the consequential order passed by the second respondent in his order dated 24.2.2015 and quash the same and consequently directing the respondents to reinstate the petitioner into service with all backwages, attendant benefits and all other monetary benefits.

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

O R D E R

The order of suspension, issued by the second respondent in proceedings dated 24.2.2015, is under challenge in this writ petition.

2. The writ petitioner was holding the post of Secretary of G.T.95, Palavakkam Primary Agricultural Co-operative Credit Society and on account of certain allegations, the writ petitioner was placed under suspension in proceedings dated 24.2.2015.

3. The learned counsel appearing for the writ petitioner contended that the impugned order of suspension was issued pursuant to the directions issued by the first respondent in proceedings dated 23.2.2015. On perusal of the order issued by the first respondent, it is seen that there are certain financial irregularities alleged to have been committed by the writ petitioner and pursuant to the allegations, the Deputy Registrar of Co-operative Societies directed the second respondent to place the writ petitioner under suspension and inform the fact to the first respondent.

4. The learned counsel appearing for the writ petitioner states

that the Deputy Registrar has no power to issue such an instruction to the second respondent to place the writ petitioner under suspension.

5. This Court is of the opinion that the letter of the Deputy Registrar to the second respondent is administrative in nature and it is only an instruction and it cannot be construed as a statutory order issued under the provisions of the Tamil Nadu Co-operative Societies Act.

6. On receipt of a complaint with regard to the financial irregularities of a Society, the Deputy Registrar issued an instruction to the second respondent-President of the Society to initiate appropriate action against the writ petitioner. Such an action can never be construed as irregular. The deputy Registrar is exercising control over the Co-operative Societies within his jurisdiction under the provisions of the Tamil Nadu Co-operative Societies Act.

7. Every action of the Deputy Registrar is to be reviewed by the Registrar of Co-operative Societies under the very same Act. Even if such a direction is said to be irregular, a ratification can be sought for from the Registrar in this regard. Even otherwise, certain powers are delegated under the provisions of the Act, through notification by the Government.

8. Assuming for a moment that the Registrar alone is competent to issue any instruction to the Society, it is left open to the writ petitioner to approach the Registrar under Section 153 of the Tamil Nadu Co-operative Societies Act, by filing a revision petition, which is of a statutory character.

9. The learned counsel appearing for the writ petitioner cited an order passed by this Court on 25.9.2013 in WP No.26639 of 2013. However, this Court is of the opinion that all these points and the power of the Deputy Registrar of the Co-operative Societies and the delegation of powers extended by way of notification by the Government can be very well adjudicated by the Revisional Authority under Section 153 of the Tamil Nadu Co-operative Societies Act. Thus, the contentions, raised in this regard, need not be accepted in view of the fact that no relief can be granted against the Co-operative Society under Article 226 of the Constitution of India. It is left open to the writ petitioner to file appropriate revision under Section 153 of the Act in order to redress his grievances.

10. Thus, the writ petition now filed, challenging the order passed by the second respondent-Society, is not maintainable in view of the fact that a Co-operative Society is not a State within the meaning of Article 12 of the Constitution of India. No writ can be issued against a Co-

operative Society in view of the legal principles settled by the larger Bench of this Court in the case of **K.Marappan vs. Deputy Registrar of Co-Operative Societies, Namakkal Circle, Namakkal [(2006) 4 CTC 689 (FB)]**.

11. This being the legal position, the writ petition filed challenging the order of suspension issued by the second respondent, cannot be entertained and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

17-08-2017

Speaking Order/Non-Speaking Order.

Index : Yes/No.

Internet : Yes/No.

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To

The Deputy Registrar of Co-operative
Societies,
Tiruvallur Circle,
Collectorate Compound,
Tiruvallur,
Tiruvallur District.

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S.M.SUBRAMANIAM, J.

Svn



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