

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-10-2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.18091 of 2009

And

M.P.No.1 of 2009

M.Venkataraman ... Petitioner

-vs-

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

2.The Special Officer,
A.A.205 Chickarasampalayam Primary
Agricultural Co-operative Bank Ltd.,
Chickarasampalayam and Post,
Sathyamangalam Taluk,
Erode District. .. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Declaration, declaring the continuation of the disciplinary proceedings pursuant to the charge memo dated 13.7.2006 issued by the second respondent after the retirement of the petitioner as illegal and null and void and consequently direct the respondents to settle all the retirement and other attendant benefits payable to the petitioner.

For Petitioner - Mr.S.Kamadevan

For Respondent-1 - Mr.L.P.Shanmugasundaram,
Special Government Pleader (Co-
op.).

For Respondent-2 - Mr.K.Rajasekaran

ORDER

A charge memo dated 13.7.2006, issued by the second respondent, is under challenge in this writ petition.

2. The maintainability of the writ petition is to be considered based on the two grounds. Firstly, the writ petitioner is an employee of the Co-operative Bank, registered under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. A Co-operative Society is not a State, within the meaning of Article 12 of the Constitution of India. Thus, no writ can be entertained against an order of proceedings passed by the management of the Co-operative Societies.

3. Admittedly, the charge memo was issued by the Special Officer of the second respondent-Co-operative Society and therefore, the writ petitioner has to exhaust the remedy available under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. The legal principles in this regard was settled by a 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)]. Secondly, the charge memo cannot be challenged by way of a writ petition, in view of the fact that the disciplinary proceedings initiated against the writ petitioner has to be proceeded and a logical conclusion is to be arrived at.

4. A Charge memo can be challenged only on exceptional circumstances and no writ can be entertained in a routine manner. Intermittent and intervention in disciplinary proceedings are not preferable and Judicial review are to be exercised cautiously and sparingly. Judicial review are to be exercised only in the event of establishing that the charge memo was issued by an authority without any jurisdiction or competency or an allegation on the ground of *mala fides* or if the charge memo is in violation of statutory rules. Even in the case of rising the allegation of *mala fides*, the authority, against whom, such an allegation is raised, has to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of these legal grounds in the writ proceedings, a writ cannot be entertained in a routine manner against the charge memo. In the case on hand, no such grounds are established.

5. However, the writ petitioner, being an employee of the Co-operative Society, and no writ can be entertained against the proceedings issued by the management of the Co-operative Society,

in view of the judgment of the larger Bench of this Court, cited supra. The other grounds raised on merits need not be considered by this Court in this writ petition.

6. Accordingly, the writ petition stands dismissed as not maintainable. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Speaking/Non speaking Order
Index : yes/no
Svn

06-10-2017



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To

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Erode.
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S.M.SUBRAMANIAM, J.

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