

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.42140 of 2016

R.Ramachandran

... Petitioner

Vs.

1. The AA508, Singampettai Primary Agricultural,
Co-operative Credit Society Ltd.,
Rep. By its President,
Singampettai Post,
Bhavani Taluk,
Erode District.
2. The Joint Registrar of Co-operative Societies,
Erode Division,
Co-operative Office Complex,
Mohan Kumaramangalm Salai,
Soorampatti, Erode - 638 009. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records on the file of the second Respondent which culminated in passing of his Impugned Order in Na.Ka.1152/2016/Sa.Pa dated 07.03.2016 and quash the same as arbitrary, illegal and ultravires of his powers and to direct the second respondent to entertain the petitioner's Revision Petition dated 09.02.2016.

For Petitioner : Mr.V.Rajesh Babu

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

ORDER

The order of rejection of the writ petition submitted by the writ petitioner in proceedings dated 07.03.2016 is under challenge in this writ petition.

2. The writ petitioner is an employee of a Co-operative Society and on account of certain allegations, the disciplinary proceedings were initiated against the writ petitioner and after conducting an enquiry, the writ petitioner was terminated from service by the Management of the Co-operative Society in proceedings dated 25.11.2014.

3. However, the writ petitioner preferred a Revision Petition under Section 153 of the Tamil Nadu Co-operative Societies Act. On 09.02.2016, the second respondent, without considering the revision petition on merits and rejected the same, on the ground that there is a delay of 440 days in filing the revision petition under Section 153 of the Tamil Nadu Co-operative Societies Act.

4. This Court is of the view that delay should not defeat the justice. The delay caused on account of certain reasons stated by the writ petitioner has to be considered pragmatically by the Revisional Authority. The writ petitioner was terminated from service and the termination of service, is no doubt a civil death to an employee. The termination, being a major penalty, this is the last opportunity under the statute provided to the writ petitioner, more specifically, under the Tamil Nadu Co-operative Societies Act.

5. Further more, without exhausting the remedies available under the Tamil Nadu Co-operative Societies Act, the writ petitioner cannot come to this Court by way of a Writ Petition under Article 226 of the Constitution of India. Thus, the alternate remedy available under Section 153, is the valuable right to be exercised by the employees of the Co-operative Society under the Act. A larger Bench of this Court has also settled the legal principles, by stating that no writ can be entertained against the Co-operative Society under Article 226 of the Constitution of India.

6. In view of the fact that the Co-operative Society is not a State within the meaning under Article 12 of the Constitution of India. This being the legal principles settled in this regard, the remedy available to the employees of the Co-operative Societies under Section 153 of the Tamil Nadu Co-operative Societies Act, is a valuable one and the same is to be provided and the cases to be decided on merits and in accordance with law by the competent authorities under Section 153 of the Act. The powers conferred to the Registrar of a Co-operative Society under Section 153 of the Act, is a quasi judicial in nature and the power was delegated to the Joint Registrar. Accordingly, the Joint Registrar has to conduct enquiry in this regard and pass orders on merits and in accordance with law, by affording reasonable opportunities to all the parties concerned. This being the view taken by this Court, the order impugned is erroneous.

7. Thus, the order of rejection passed by the second respondent in proceedings dated 07.03.2016 is quashed and the matter is remitted back to the second respondent for re-consideration and accordingly, the second respondent is directed to take the matter on file and pass orders on merits and in accordance with law, by affording an opportunity to all the parties concerned, within a period of twelve weeks from the date of receipt of a copy of this order.

8. Accordingly, the Writ Petition stands allowed. However, there shall be no order as to costs.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

msm

To

1. The AA508, Singampettai Primary Agricultural,
Co-operative Credit Society Ltd.,
Rep. By its President,
Singampettai Post,
Bhavani Taluk,
Erode District.
2. The Joint Registrar of Co-operative Societies,
Erode Division,
Co-operative Office Complex,
Mohan Kumaramangalm Salai,
Soorampatti, Erode - 638 009.

+1 CC to the Government Pleader SR.No.70826

+1 CC Mr.L.P.Shanmugasundaram, Advocate SR.No.70768

+1 CC Mr.S.Kadarkarai, Advocate SR.No.70252

CO-
ths : 28.10.2017

W.P.No.42140 of 2016

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