

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.10.2018

CORAM

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

W.P.No.1108 of 2015

and

M.P.No.2 of 2015

K.Muruganantham

.. Petitioner

vs

1.The Registrar of Co-Operative Societies,
MV Natarajan Maligai,
170, Periyar E.V.R.High Road,
Kilpauk, Chennai-10

2.The Joint Registrar of Co-operative Societies,
Co-Operative Department,
Kancheepuram Range Division,
Kancheepuram

3.The Deputy Registrar of Co-operative Societies,
Co-Operative Department,
Chengalpet Circle,
Chengalpet

4.The President,
G2 156, Sholinganallur Town
Co-operative Credit Society,
Sholinganallur,
Chennai - 600 119.

.. 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 of the 1st Respondent vide proceedings in Rc.90292/2014 UB3 dated 11.11.2014 and order of the fourth respondent dated 19.11.2014 and quash the same and consequently directing the respondents 1 to 4 herein to promote the petitioner to the post of writer / clerk in the 4th respondent society as per the proceedings of the 1st respondent in Na.Ka.No.52437/12 Tho.ve.sa 1 dated 03.08.2012.

For Petitioner : Mr.Sankar Ramasamy

For Respondents : Mrs.T.Girija,

Government Advocate

(Co-operatives) for RR1 to 3

: Mr.L.P.Shanmuga Sundaram,
Special Government Pleader,
(Co-operatives) for R4

O R D E R

The order of the first respondent dated 11.11.2014 and the order passed by the fourth respondent in proceedings dated 19.11.2014 are under challenge in this writ petition.

2.The petitioner admittedly is an employee of the fourth respondent Cooperative Society. The learned counsel for the petitioner made a submission that the writ petitioner earlier filed W.P.No.24134 of 2014 and this Court passed an order on 05.09.2014 directing the respondents 1 to 3 to consider the representation submitted by the writ petitioner and pass orders on merits and in accordance with law. Pursuant to the orders passed by this Court on 05.09.2014, the first respondent Registrar of Cooperative Societies directed the fourth respondent to consider the representation submitted by the writ petitioner and take a decision and pass orders. Accordingly, the fourth respondent Cooperative Society considered the representation of the writ petitioner in respect of grant of promotion and accordingly, passed an order on 19.11.2014 rejecting the claim of the writ petitioner. The present writ petition has been filed challenging both the order of the fourth respondent and the order of the Registrar dated 11.11.2014. The order passed by the Registrar is a direction issued to the fourth respondent to consider the representation submitted by the writ petitioner in view of the direction issued by this Court. Thus, the said order cannot be an order affecting the rights of the writ petitioner. The said order is an instruction given to the fourth respondent to decide the matter in view of the fact that this Court issued a direction to consider and pass orders. Ultimately, the order passed by the fourth respondent dated 19.11.2014 is the final order passed in respect of the claim of the writ petitioner for promotion. Thus, the writ petitioner is aggrieved from and out of the order passed by the fourth respondent in proceedings dated 19.11.2014.

3. In view of the fact that the fourth respondent is a Cooperative Society registered under the provisions of the Cooperative Societies Act and not a "State" within the meaning of Article 12 of the Constitution of India, this Court cannot entertain the writ petition.

4. In view of the legal principles settled by the Larger Bench of this Court in the case of Marappan and others Vs. Deputy Registrar of Co-operative Societies, Namakkal reported in 2006 (4) CTC 689, the petitioner has to approach the competent

authority under Section 153 of the Tamil Nadu Cooperative Societies Act. In respect of delay, the petitioner is at liberty to file an application to condone the delay before the competent authority and if any such application is filed, the same shall also be considered along with the revision petition, if any filed by the writ petitioner challenging the said order passed by the fourth respondent in proceedings dated 19.11.2014. This being the legal principles to be followed, the writ petitioner is at liberty to approach the competent authority under the provisions of the said Act.

5. With these observations, the writ petition stands dismissed. However there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

- 1.The Registrar of Co-Operative Societies,
MV Natarajan Maligai,
170, Periyar E.V.R.High Road,
Kilpauk, Chennai-10
- 2.The Joint Registrar of Co-operative Societies,
Co-Operative Department,
Kancheepuram Range Division,
Kancheepuram
- 3.The Deputy Registrar of Co-operative Societies,
Co-Operative Department,
Chengalpet Circle,
Chengalpet.

+1 cc to M/s.L.P.Shanmugasundaram, Advocate Sr.No.71713
+1 cc to The Government Pleader, Sr.No.72020
+1 cc to M/s.Sankar Ramasamy, Advocate Sr.No.70450

W.P.No.1108 of 2015

MP(CO)
CSL/13.11.2018