

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2018

CORAM :

THE HONOURABLE Mr.JUSTICE S.M. SUBRAMANIAM

W.P.No.137 of 2017 and  
W.M.P.Nos. 126 & 127 of 2017

V.Ramesh Babu

... Petitioner

Vs

1. The Registrar of Cooperative Societies  
(Housing)/Revisional Authority,  
Tamil Nadu Housing Board, 1<sup>st</sup> Floor,  
No.33, Anna Salai, Nandanam,  
Chennai - 600 035.
2. The Deputy Registrar of Cooperative  
Societies (Housing), North Arcot Region,  
Gandhi Nagar East,  
Vellore - 1.
3. No.K.K.361 Hosur, Co-operative Housing  
Society Ltd., rep. By its President,  
Old Telephone Exchange Road,  
Hosur - 635 109.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the entire records relating to the impugned orders passed by the 1<sup>st</sup> respondent in his proceedings Na.Ka.3525/2016/Sa.Pa.1 dt.25.11.2016 confirming the order passed by the 3<sup>rd</sup> respondent management by the then Special Officer in his proceedings order No.1/2002 dt.02.01.2002 and quash the same.

For Petitioner : Mr.R.Krishnamoorthy

For R1 and R2 : Mr.L.P.Shanmugasundaram  
Special Government Pleader  
(Co-operatives)

For R3 : Mrs.T.Girija

## O R D E R

The order confirming the reversion, issued against the writ petitioner, reverting him from the post of Clerk to the post of Attender, is under challenge in this writ petition.

2. The writ petitioner was initially appointed as Office Assistant w.e.f. 19.12.1980 in Hosur Co-operative Housing Society Ltd., Hosur (for brevity 'Co-operative Society'). Subsequently, he was promoted to the post of Attender, w.e.f. 20.07.1986 and he is continuing in the said post. Thereafter, he was further promoted to post of Clerk, w.e.f. 15.09.1996, as per the resolution passed by the management of the Co-operative Society on 04.10.1996. The petitioner claims that he has passed S.S.L.C. examination and has undergone Co-operative Training conducted by the Nachiappa Co-operative Training Institute, Salem, during the year 1992-93. Thus, he is fully qualified to hold the post of Clerk in the Co-operative Society.

3. The learned counsel for the petitioner states that the writ petitioner, challenging the reversion order, filed a revision application under Section 153 of Tamil Nadu Co-operative Societies Act, 1983, before the Joint Registrar of Co-operative Societies, who in turn confirmed the order of reversion. Challenging the said revision order, the present writ petition has been filed.

4. The grievances of the writ petitioner is that the petitioner was not given any notice, in order to provide an opportunity to defend his case of reversion. The management of Co-operative Society has no valid reason for passing the order of reversion. The writ petitioner states that the by-laws of the Society has not been properly followed, while passing the order of reversion.

5. The learned counsel for the respondents opposed the contentions raised on behalf of the writ petitioner by stating that the writ petitioner, no doubt, was promoted to the post of Clerk from the post the Attender. However, it is found by the competent authorities that the writ petitioner was erroneously promoted by the management of the Cooperative Society, despite the fact that he was not qualified, as per the by-laws of the society. It is contended that the then Special Officer had erroneously passed the resolution promoting the writ petitioner from the post of Attender to the post of Clerk. On verification by the authorities concerned, it was found that the writ petitioner has not cleared the requisite test of Co-operative Audit and Banking. Thus, the writ petitioner is not qualified for promotion to the post of Clerk.

6. The statement of marks enclosed by the writ petitioner himself in Page No.5 of the Typed Set of Papers filed along with the writ petition shows that the writ petitioner secured 30 marks in the subject of Co-operative Audit and Banking. However, the minimum pass marks for that examination is 40 out of 100. Thus, the writ petitioner has not passed the Co-operative Audit examination, which is a requisite examination, as per the by-laws for promotion to the post of Clerk in the Cooperative Society. It is not clarified whether the writ petitioner subsequently appeared and passed the said examination or not. Thus, the writ petitioner was not qualified, in view of the fact that he had failed in the Co-operative Audit paper, even as per the statement of marks enclosed by him in the Typed Set of Papers as mentioned above.

7. The learned counsel for the 3<sup>rd</sup> respondent submitted a copy of the by-laws of the Co-operative Society. As per the copy of the by-laws, the eligibility for appointment of the post for Clerk are enumerated as under :

" CLERKS :

- (a) S.S.L.C. Examination eligible for college course; and
- (b) A Course of training undergone in the Central Co-operative Training College, Madras or in any of the mofussil institutes, Institutes, and a pass in the examination in Book-keeping, Banking Co-operation and Auditing held by the Tamil Nadu Co-operative union.

© NOTE: Person who have put in atleast 1 years in any one of the Primary Housing societies but S.S.L.C. failed or also eligible for the post provided he has the qualification as stipulated under (b) above."

8. In view of the fact that the writ petitioner has not cleared the requisite examination for promotion to the post of Clerk, this Court is of an opinion that the order of reversion passed is in accordance with the by-laws of the Co-operative Society and the revision order passed by the Joint Registrar in the revision application under Section 153 of Tamil Nadu Co-operative Societies Act, 1983, is also in conformity with the by-laws, which prescribe the requisite qualification for promotion to the post of Clerk.

9. In this view of the matter, there is no infirmity in respect of the reversion order as well as the revision order passed by the authorities.

10. Accordingly, the writ petition is devoid of merits and hence, stands dismissed. However, there shall be no orders as to costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mkn/ssr

To

1. The Registrar of Cooperative Societies (Housing)/Revisional Authority, Tamil Nadu Housing Board, 1<sup>st</sup> Floor, No.33, Anna Salai, Nandanam, Chennai - 600 035.
2. The Deputy Registrar of Cooperative Societies (Housing), North Arcot Region, Gandhi Nagar East, Vellore - 1.
3. No.K.K.361 Hosur, Co-operative Housing Society Ltd., rep. By its President, Old Telephone Exchange Road, Hosur - 635 109.

+1cc to M/S.T.Girija, Advocate Sr.63414  
+1cc to Mr.R.Krishnamoorthy, Advocate Sr.63897  
+1cc to the Government Pleader Sr.64628, 63851

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srg 26/09/2018