

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****Dated : 09.02.2018****CORAM :****THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN****W.P(MD)No.323 of 2014****and****M.P. (MD) No.1 of 2014 and W.M.P. (MD) No.8341 of 2016**

C.Gunasekar

... Petitioner

Vs.

1. The Registrar of Co-operative Societies,
No.170, N.V.Natarajan Maaligai,
Poonamalle High Road,
Kilpauk, Chennai.
2. The Joint Registrar of Co-operative Societies,
Pudukottai Region,
Pudukottai.
3. The Deputy Registrar of Co-operative Societies,
Aranthangi Circle,
Aranthangi, Pudukottai District.
4. The Managing Director,
M.M.23, Alangudi Agricultural Producers
Co-operative Marketing Society Ltd.,
No.7, Gandhiji Road, Alangudi,
Pudukottai District.
5. The President,
M.M.23, Alangudi Agricultural Producers
Co-operative Marketing Society Ltd.,
No.7, Gandhiji Road, Alangudi,
Pudukottai District.
6. T.Palanichamy,
President,
M.M.23, Alangudi Agricultural Producers
Co-operative Marketing Society Ltd.,
No.7, Gandhiji Road, Alangudi,
Pudukottai District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the charge memo dated



26.09.2013 second show cause notice dated 20.12.2013 as well as the dismissal order dated 24.12.2013 issued by the 5th respondent and quash the same and consequently direct the respondents to reinstate the petitioner in service with all attendant benefits.

For Petitioner : Mr.M.Sadiq Raja

For Respondents : Mrs.S.Srimathy, Spl. G.P. For RR1-3
Mr.T.Ravichandran for RR4 and 5

ORDER

The petitioner was appointed as Clerk in the office of the fourth respondent on 12.07.1991. He was promoted as Accountant in 2001 and made Secretary incharge w.e.f. 01.02.2012. Disputes arose between the petitioner and the Management Co-operative Society and this led to filing of more than one writ petition. The petitioner was suspended from service. Disciplinary action was taken against him and finally, by an order dated 24.12.2013, the petitioner was dismissed from service. The same is questioned by the petitioner on several grounds.

2.The learned counsel for the petitioner endeavoured hard to demonstrate that the termination of the petitioner was clearly a malafide exercise of power and that the provisions in the bye-laws have been clearly infringed. He would also point out that an appeal to the Board, which is appellate authority will not serve any purpose.

3.This Court is unable to grant relief to the petitioner for the reason that in the earlier round, this Court by an order dated 01.10.2013 in W.P.(MD) No.16236 of 2013 held that the petitioner cannot maintain a writ petition to ventilate his service grievance. The petitioner had earlier filed W.P.(MD) No.16236 of 2013 seeking a mandamus to the Management to permit him to discharge his duties as Accountant and that he should not be terminated from service, except by due process of law. This Court held that Alangudi Agricultural Producers Co-operative Marketing Society Ltd., is a Co-operative Society governed by the Tamil Nadu Co-operative Societies Act and that in view of the Larger Bench decision reported in **2006(4) CTC 689, (K.Marappan Vs. Deputy Registrar of Co-operative Societies)**, a writ petition against Co-operative Society is not maintainable. When this Court in the earlier round of litigation had held that the petitioner herein cannot seek relief against his Management in writ proceedings, in a subsequent round, this Court cannot take an about-turn and hold that a writ petition would lie. In fact, in the earlier round, the petitioner herein wanted an injunction against termination. That relief was negatived. Therefore, after termination, the petitioner cannot once again invoke the very same writ remedy.



The issue regarding maintainability as far as this case is concerned has been settled.

4. The learned counsel for the petitioner submitted that liberty should be given for availing the alternative remedy of filing a revision before the authorities constituted under the Tamil Nadu Co-operative Societies Act. Such liberty is granted.

5. It is made clear that if a revision is filed by the petitioner herein within four weeks from the date of receipt of a copy of this order before the revisional authority, the said representation will be dealt with on merits without reference to the question of limitation. If such a revision is filed, the revisional authority shall dispose of the same within a period of three months thereafter. Such a direction is given considering the laches that has been occasioned in this case on account of pursuit of the writ remedy before this Court.

6. This Court takes notice of the fact that the order dismissing the writ petition is passed not at the admission stage, but at the stage of final hearing. When this Court has chosen to admit the writ petition, but then dismissed the writ petition at the final hearing stage on the ground of maintainability, necessarily, some relief should be given to the petitioner herein. It is for this reason that such liberty and direction to the revisional authority have been issued so as to not prejudice the case of the writ petitioner. It is reiterated that this Court has not expressed any opinion on the merits of the matter and dismissal of this writ petition should not be construed as an expression of any opinion adverse to the petitioner herein. Preserving the rights of the petitioner to question the impugned order by way of revision in terms of the Act, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

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Pudukottai Region,
Pudukottai.



3. The Deputy Registrar of Co-operative Societies,
Aranthangi Circle,
Aranthangi, Pudukottai District.

+1cc to Mr.M.Sadiq Raja, Advocate Sr.No.47626

+1cc to Mr.T.Ravichandran, Advocate Sr.No.47685

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VB/KKR/SAR1/24.04.2018/4P/6C

**W.P(MD)No.323 of 2014 and
M.P. (MD) No.1 of 2014 and W.M.P. (MD) No.8341 of 2016
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