

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATE : 05.04.2019

CORAM

THE HONOURABLE MR. JUSTICE V.PARTHIBAN

W.P. NO. 10731 OF 2011
AND
M.P. NO. 1 OF 2011

K.Mathiyazhagan

.. Petitioner

- Vs -

1. The Joint Registrar of Co-op. Societies
Cuddalore Region, Cuddalore
Cuddalore District.
2. The Special Officer
I.I.521, Edachithoor Primary Agricultural
Co-op. Credit Society
Edachithoor Village & Post
Vridhachalam Taluk, Cuddalore Dt.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorarified mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings A.Thi.Mu. No.1515/2011 Thu.Va.Tha.1, dated 15.03.2011 and quash the same and consequently direct the 1st respondent to entertain and dispose the revision on merits filed by the petitioner on 7.3.2011.

For Petitioner : Mr.C.Prakasam

For Respondents: Mr.L.P.Shanmugasundaram, Spl.GP for R-1

Mr. M.S.Palaniswamy for R-2

ORDER

This writ petition has been filed for the issuance of a writ of certiorarified mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings A.Thi.Mu. No.1515/2011 Thu.Va.Tha.1, dated 15.03.2011 and quash the same and consequently direct the 1st respondent to entertain and dispose the revision on merits filed by the petitioner on 7.3.2011.

2. The case of the petitioner is that his services came to be terminated by the 2nd respondent vide order dated 28.01.2010 against which the petitioner preferred a revision before the 1st respondent. However, the 1st respondent, vide order dated 15.03.2011, rejected the revision petition filed by the petitioner holding that the revision petition has been filed beyond the period of limitation u/s 153 of the Co-operative Societies Act. As against the said order, the present petition has been filed by the petitioner.

3. Mr.C.Prakasam, learned counsel appearing for the petitioner submits that the rejection order is inconsistent with the law laid down in a catena of decisions by this Court. One such writ petition is enclosed in the typed set of documents relating to W.P. No.13127/2010 dated 23.6.2010. Attention of this Court was drawn to para-4 of the order in the above said W.P. No.13127/2010, wherein a learned single Judge of this Court, in para-4, has held as under :-

"4. Though technically the first respondent is right in relying upon the proviso to Section 153 (1), there is no specific provision in the Act, barring the application of the provisions of the Limitation Act. Section 153 (1) entitles the Registrar and the Government even to exercise suo motu powers of revision. Therefore, in such circumstances, the first respondent need not have rejected the revision petition on the sole ground that it was barred by limitation."

4. According to the learned counsel appearing for the petitioner, the ratio, laid down by this Court above, is squarely applicable to the present also and therefore, the order of rejection passed by the 1st respondent is liable to be interfered with.

5. On a perusal of the entire materials on record, this Court is in complete agreement with the submission made by the learned counsel for the petitioner. It is not open to the 1st respondent to reject the revision petition, filed by the petitioner, on the ground of limitation, when no such period of limitation is prescribed under the Co-operative Societies Act. In fact, learned Judge has clearly held so with regard to limitation in the above referred to decision.

6. In view of the above legal position, the impugned order dated 15.3.2011, passed by the 1st respondent in proceedings A.Thi.Mu. No.1515/2011 Thu.Va.Tha.1 is hereby set aside. The matter is remanded back to the 1st respondent and the 1st respondent is directed to entertain the revision petition and pass appropriate orders on merits and in accordance with law

within a period of three months from the date of receipt of a copy of this order.

7. This writ petition is allowed with the aforesaid directions. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

GLN

1. The Joint Registrar of Co-op. Societies
Cuddalore Region, Cuddalore
Cuddalore District.
2. The Special Officer
I.I.521, Edachithoor Primary Agricultural
Co-op. Credit Society
Edachithoor Village & Post
Vridhachalam Taluk, Cuddalore Dt.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.33875
+1cc to the Government Pleader, S.R.No.34245
+1cc to Mr.M.S.Palaniswamy, Advocate, S.R.No.33252

W.P. NO.10731 OF 2011

VBA (CO)

RRS (02/05/2019)

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