

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2019

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.26349 of 2015

and

M.P.No.1 of 2015

The Management,
V.L.(Spl.) 213, Sathambakkam Primary
Agricultural Cooperative Credit Society,
Sathambakkam Village,
Walaja Taluk,
Vellore District. .. Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
Vellore Region,
Vellore District.

2.K.Venkataraman ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorari to call for the records of the first respondent's order passed in Na.Ka.No.2857/2015/A2 and Revision Petition No.4/2015/A2 dated 06.07.2015 and quash the same.

For Petitioner : Mr.B.Hari Babu

For Respondents : Mr.L.P.Shanmugasundaram for R1
Special Government Pleader
Mr.Balan Haridass for R2

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O R D E R

The petitioner Society is aggrieved against the order of the first respondent dated 06.07.2015 passed in the revision petition filed by the second respondent challenging the order of punishment of removal from service.

2.Heard the learned counsel for the petitioner, learned counsel appearing for the first respondent and the learned counsel appearing for the second respondent.

3.The second respondent was working as Secretary in the petitioner Society. He was served with a charge memo dated 21.05.2014 containing five charges. He gave his explanation to those charges. Not being satisfied with the explanation, a domestic enquiry was conducted and the Enquiry Officer found four charges proved and one charge partly proved. Consequently, the petitioner passed the order of punishment, terminating the service of the second respondent on 24.03.2015. Challenging the said order of dismissal, the second respondent preferred a revision before the first respondent under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983. The first respondent passed the impugned order by modifying the punishment as the one of stoppage of increment for one year without cumulative effect. In other words, the first respondent set aside the order of dismissal and modified the punishment as stated supra.

4. The main grievance expressed by the petitioner before this Court is that the 1st respondent has not considered any of the contention raised by the Management in their detailed counter filed along with 36 documents. It is their further contention that the first respondent has simply modified the punishment by a single line order, without their being any discussion on facts and circumstances or disclosing any reasons justifying such modification.

5. On the other hand, the learned counsels appearing for the respondents, though sought to support the impugned order, are however, not in a position to point out as to whether the 1st respondent has disclosed any independent reasons or findings in the impugned order for modifying the punishment.

6. I have given my careful consideration to the facts and circumstances of the case and the submissions made by the learned counsels appearing on either side. I have also gone through the impugned order.

7.Though the 1st respondent has chosen to pass 11 pages order, it is evident that his finding is confined only to one paragraph at the 11th page, that too, only by stating that the punishment imposed on the petitioner is excessive. In other words, the 1st respondent except extracting the contentions of the Revision Petitioner and the objections raised by the respondent therein (petitioner herein), has not expressed his independent views and findings on the respective pleadings of the parties in support of his conclusion as to why such punishment of dismissal is not correct and as to why the same is to be modified to the one of stoppage of increment for one year without cumulative effect. Absolutely, the impugned order is silent without reasons and findings.

8. Needless to say that the 1st respondent, a Revisional Authority has to exercise his power, while dealing with the revision, by independent application of mind to the facts and circumstances followed by passing a speaking order. Since this Court finds that the 1st respondent has not passed speaking order, the matter has to go back to the 1st respondent for fresh consideration.

9. Accordingly, the writ petition is allowed and the impugned order is set aside and consequently, the matter is remitted back to the 1st respondent for considering the revision filed by the 2nd respondent once again on merits and pass orders in accordance with law after hearing the 2nd respondent as well as the petitioner. The 1st respondent shall pass such order within a period of four weeks from the date of receipt of a copy of this order. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS IV)

//True Copy//

Sub Assistant Registrar

vri/sni

To

The Joint Registrar of Co-operative Societies,
Vellore Region,
Vellore District.

+1cc to Mr.B.Hari Babu, Advocate, S.R.No.29865
+1cc to Mr.Balan Haridass, Advocate, S.R.No.29272
+1cc to the Government Pleader, S.R.No.29817

W.P.No.26349 of 2015

BS (CO)
CS/03/04/2019

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