

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.03.2019

CORAM

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

W.P.No.6098 of 2019

and

W.M.P.No.6920 of 2019

G.Manimegalai

..Petitioner

vs

1.The District Collector  
Erode.

2.The Registrar of Cooperative Societies  
Chennai.

3.The Joint Registrar of Cooperative Societies  
Soorampatti Nal Road, Erode District.

4.The Deputy Registrar of Cooperative Societies  
Soorampatti Nal Road, Erode District.

5.The President  
No.234, Perundurai Primary Agricultural  
Cooperative Credit Society Ltd.,  
5, Bhavani Road  
Perundurai, Erode District - 638 052.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondent 1 to 4 promote the petitioner for the post of Senior Clerk in the 5<sup>th</sup> Respondent Society based on the service records and education qualification and grant all monetary benefits and other consequential benefits.

WEB COPY

For Petitioner : Mr.T.Venkatesh Kumar

For Respondents : Mr.A.N.Thambidurai

Additional Government Pleader

## O R D E R

The relief sought for in the present writ petition is for a direction to direct the Respondent 1 to 4 promote the petitioner for the post of Senior Clerk in the 5<sup>th</sup> Respondent Society based on the service records and education qualification and grant all monetary benefits and other consequential benefits.

2.The 5<sup>th</sup> respondent Cooperative Society is a registered society under the provisions of the Tamil Nadu Cooperative Societies Act. Thus, it is not a "State" within the meaning of Article 12 of the Constitution of India. Any Cooperative Society, if funded by the "State" or the Share Capital exceeds 50% and the administrative control is vested with the Government, then only, it can be construed as a "State" within the meaning of Article 12 of the Constitution of India and the writ proceedings can be entertained. Even in that case also, the general principles of law requires exhausting the statutory remedies provided under the Tamil Nadu Cooperative Societies Act itself. Thus, the aggrieved employees of the Cooperative Societies have to approach the competent authority under the provisions of the Tamil Nadu Cooperative Societies Act for redressing their grievances in the manner known to law.

3.Promotion perse cannot be claimed as a matter of right. However, consideration for promotion is a fundamental right of an employee. All the eligible employees are eligible to be considered for grant of promotion in accordance with the Rules/Bylaws, which is in force. Thus, the competent authorities are bound to consider the names of all the eligible persons, while undertaking the process of promotion in accordance with the procedures as contemplated.

4.However, in the present case, the writ petitioner has submitted representation and the present writ petition is filed to consider the representation. Even to issue such direction to consider the representation, the petitioner has to establish a legal right. In the absence of establishing any such legal right, no writ petition can be entertained and the writ petitioner has to exhaust the remedies provided under the Tamil Nadu Cooperative Societies Act and thereafter, approach the competent Forum or the Appellate authorities.

5.This being the procedures as contemplated, this Court is of an opinion that the petitioner has to approach

the competent authorities by way of a revision under Section 153 of the Tamil Nadu Cooperative Societies Act.

6.The legal principles in respect of the maintainability of the writ petition against the orders passed by the Management of the Cooperative Societies is also well settled in the case of Marappan and others Vs. Deputy Registrar of Co-operative Societies, Namakkal reported in 2006 (4) CTC 689.

7.Under these circumstances, the writ petitioner is at liberty to redress his grievances by exhausting the remedies available under the Tamil Nadu Cooperative Societies Act.

8.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(CS iii)

//True Copy//

Sub Assistant Registrar

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To

1.The District Collector  
Erode.

2.The Registrar of Cooperative Societies  
Chennai.

3.The Joint Registrar of Cooperative Societies  
Soorampatti Nal Road, Erode District.

4.The Deputy Registrar of Cooperative Societies  
Soorampatti Nal Road, Erode District.

+1cc to Mr. I.Abrar abdullah, Advocate SR.No. 20053

+1cc to Mr.L.p.Shanmuga Sundaram , Advocate SR.No. 20084

+1 CC TO GOVERNMENT PLEADER SR.NO. 20970

W.P.No.6098 of 2019

A.SK(20/03/2019)