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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2019

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P (MD) No.9558 of 2015

and

M.P (MD) Nos.1 & 2 of 2015

K.Lakshmanan

... Petitioner

Vs

1.The Deputy Registrar of
Co-operative Societies,
Usilampatty Region,
Now at Thirumangalam,
Madurai District.

2.M.D.SPL.89, S.Kottaipatti Primary
Agricultural Co-operative Credit Society
Ltd., Rep Thro its President,
S.Kottaipatti, Peraiyur Taluk,
Madurai District.

... Respondents

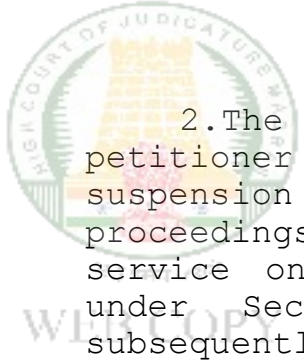
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the impugned order passed by the second respondent dated 30.03.2015 and quash the same and direct the respondents to reinstate the petitioner with all consequential and attendant benefits.

For Petitioner : Mr.R.Saravanan

For Respondents : Mr.S.Dhayalan,
Government Advocate

ORDER

The resolution dated 30.03.2015 passed by the elected board of the Second respondent/co-operative society as well as the consequential order of relieving are under challenge in the present writ petition.



2. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner was placed under suspension of initiation of the departmental disciplinary proceedings. After conducting an enquiry, he was dismissed from service on 15.06.2009. The writ petitioner preferred a petition under Section 2(A)2 before the Labour Court, Madurai and subsequently filed another petition under Section 33(c)(2) in C.P.No.23 of 2010 before the Labour Court for claiming Subsistence allowance. The subsistence allowance was directed to be paid. Thereafter, the second respondent entered into the 12(3) settlement on 23.01.2014. Based on the 12(3) settlement, the writ petitioner was reinstated into service by an order dated 27.01.2014. In view of the reinstatement, the writ petitioner relinquished the award passed by the Labour Court in C.P.No.23 of 2010. Under these circumstances, once again the writ petitioner was dismissed from service on 30.03.2015.

3. The learned counsel appearing on behalf of the writ petitioner states that 12(3) settlement now approved by the Labour Court had not been implemented by the second respondent/co-operative society.

4. This Court is of the considered opinion that in respect of the disputes in connection with 12(3) settlement before the Labour Court, no writ can be entertained. The writ petitioner has to approach the Labour Court if at all any grievances exist. Even otherwise also, against the co-operative society, no writ can be entertained, in view of the fact that the registered co-operative society is not a 'State' within the meaning of Article 12 of the Constitution of India. Therefore, the writ petitioner has to approach the competent authority for the purpose of exhausting the alternative remedy provided under Section 153 of the Tamil Nadu Co-operative Societies Act. The Larger Bench Bench of this Court has settled the legal principles in this regard in the case of **Marappan v. The Deputy Registrar of Co-operative Societies, Namakkal** reported in **2006(4) CTC 689**. Therefore, the writ petitioner has to exhaust the alternative remedy provided under the statute and thereafter, he has to approach the competent forum. Contrarily, all such disputed facts cannot be adjudicated in a writ proceedings under Article 226 of the Constitution of India. Such disputed facts required adjudication and verification of original documents and the evidences connected there with. Such an exercise cannot be done by the High Court in a writ jurisdiction. Therefore, the aggrieved persons have to approach the competent authority at the first instance and after exhausting the remedy they are at liberty to approach the competent forum.

5. This being the principles settled by the Court, the writ petitioner is at liberty to approach the competent authority under the Act for the purpose of redressing his grievances in the manner known to law.



6. With these observations, the writ petition stands dismissed.
No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

WEB COPY /TRUE COPY/

Sub Assistant Registrar

To

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Ltd., Rep Thro its President,
S.Kottaipatti, Peraiyur Taluk,
Madurai District.

+1. C.C. to M/S.R.Saravanan, Advocate SR.No. 75311

+1 cc to Special Government Pleader, SR.No. 75431

W.P (MD) No.9558 of 2015

15.07.2019

AM

JM/26.07.2019/3P-5C