

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.2327 of 2020

M.Raja

... Petitioner

.v.

1.The Principal Secretary to Government,
Co-operation, Food and Consumer Protection (CL 1)
Department, Secretariat,
Fort St.George,
Chennai 600 009.

2.The Registrar of Co-operatives Societies,
No.170, Periyar E.V.R.High Road,
Kilpauk, Chennai 600 010.

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

.... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent in proceedings Rc.No.1564/2019/P.A.1 dated 09.01.2020 and quash the same and consequently directing the 1st respondent to pass an order of promotion by including the petitioner's name in the panel for the post of Deputy Registrar of Co-operative Societies for the year 2018-2019 as on 01.10.2017.

For Petitioner : Mr.N.G.R.Prasad
for Mr.V.Stalin

For Respondents : Mr.D.Venkatachalam
Additional Government Pleader

O R D E R

This Writ Petition has been filed challenging the proceedings of the 2nd respondent dated 09.01.2020 and for a consequential direction to direct the 1st respondent to pass an order by considering the petitioner's name in the Panel for promotion to the post of Deputy Registrar of Co-operative Societies.

2.The case of the petitioner is that he was appointed as a Junior Inspector of Co-operative Societies in the year 1983. In the year 2002, he was promoted as a Co-operative Sub Registrar. A Charge Memo came to be issued against the petitioner on 25.08.2015 and the Charge against the petitioner was that there are some properties standing in the name of his wife and which has not been revealed and therefore, the same is in contravention of the Government Conduct Rules.

3.An Enquiry Officer was appointed and the petitioner participated in the proceedings and the same concluded with a punishment of Censure imposed by the 3rd respondent, by his proceedings dated 15.02.2018. According to the petitioner, the period itself is over and the petitioner is entitled to be added in the Panel for promotion to the post of Deputy Registrar. Since the 2nd respondent did not add the name of the petitioner in the promotion Panel, the petitioner made a representation in this regard. At this point of time, the 1st respondent had issued a Government Order on 05.07.2019 and had cancelled the punishment of Censure and the matter was remitted back to the 2nd respondent to again proceed further with the disciplinary case. This order passed by the 1st respondent became a subject matter of challenge in W.P.No.22644 of 2019. This Court granted an order of interim stay of the proceedings of the 1st respondent. While this was pending, one more Charge Sheet came to be issued against the petitioner on 05.09.2019. Again, the petitioner approached this Court and filed W.P.No.34375 of 2019, challenging this Charge Sheet. This Court granted an order of interim stay on 10.12.2019.

4.In the meantime, the representation made by the petitioner to the 2nd respondent to consider by adding the name of the petitioner in the Panel for promotion to the post of Deputy Registrar of Co-operative Societies, was pending. This representation was disposed of by the 2nd respondent by stating that it is only the 1st respondent, who can consider the representation made by the petitioner since the post involved in the present case is Deputy Registrar of Co-operative Societies for which, the appointing authority is the Government.

Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. Mr. N.G.R. Prasad, learned counsel appearing on behalf of the petitioner submitted that the respondents are creating one hurdle after another only to prevent the petitioner from being considered for promotion to the post of Deputy Registrar of Co-operative Societies. The learned counsel further submitted that the attempt made by the respondents to reopen the Charge against the petitioner has already been stayed by this Court and the one year period has also expired after the punishment of Censure was passed. Therefore, the learned counsel submitted that the petitioner's name ought to have been added in the Panel and the petitioner must be considered for promotion to the post of Deputy Registrar of Co-operative Societies. The learned counsel concluded his arguments by submitting that the 2nd respondent has now rejected the representation made by the petitioner only on the ground that the 1st respondent alone is entitled to take a decision on the representation made by the petitioner since the post of Deputy Registrar of Co-operative Societies directly comes under the control of the Government, which is the appointing authority. The learned counsel therefore submitted that the 1st respondent can be directed to consider the representation made by the petitioner in accordance with law, within a time stipulated by this Court.

6. The learned counsel appearing on behalf of the respondents submitted that the Charge Memo that was issued against the petitioner has not been quashed and it has been merely stayed by this Court. The learned counsel further submitted that a mere stay will not entitle the petitioner to be considered for promotion. It was further submitted that it is only the 1st respondent, who can take a decision on the request made by the petitioner to add his name in the Panel to the post of Deputy Registrar of Co-operative Societies.

7. Taking into consideration the facts and circumstances of the case and the limited relief that has been sought for in this writ petition, this Court does not want to go into the merits of the claim that have been made on either side. The 2nd respondent has ultimately rejected the representation made by the petitioner only on the ground that the 1st respondent alone has the authority to consider the representation made by the petitioner since the post involved is Deputy Registrar of Co-operative Societies, for which the appointing authority is the 1st respondent. Therefore, it will be appropriate, if a direction is given to the 1st respondent to consider the claim made by the petitioner and to pass orders within a time that can be fixed by this Court.

8.In view of the above discussion, there shall be a direction to the 1st respondent to consider the claim made by the petitioner, who is seeking for adding his name in the Panel for promotion to the post of Deputy Registrar of Co-operative Societies and appropriate orders shall be passed in this regard, within a period of six weeks from the date of receipt of copy of this order. The petitioner is directed to make a fresh representation to the 1st respondent along with a copy of this order.

This Writ Petition is disposed of with the above directions. There shall be no order as to costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Secretary to Government,
Co-operation, Food and Consumer Protection (CL-1)
Department, Secretariat,
Fort St.George,
Chennai 600 009.
- 2.The Registrar of Co-operatives Societies,
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- 3.The Joint Registrar of Co-operative Societies,
Krishnagiri Region,
Krishnagiri District.

+1cc to the Government Pleader Sr.11406
+1cc to M/s.V.Stalin, Advocate Sr.10719

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srg 14/02/2020