



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.11171 of 2015

D.Palanisamy

...Petitioner

-Vs-

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

2.The Management of S.768 KN.Pudur
Primary Agricultural Co-operative
Credit Society Ltd.,
Rep. by its President,
K.Morur Post, Omalur Taluk,
Salem District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order of removal from service passed by the 2nd respondent dated 07.01.2015 and the order passed by the 1st respondent Revisional authority in his Pro.Na.Ka.No.585/2015/Sa.Pa. dated 16.02.2015, quash the same as illegal and issue consequential directions to the respondents herein to reinstate the petitioner in service as Secretary of S.No.768, K.N.Pudur, Primary Agricultural Co-operative Credit Society Ltd., with all consequential service and monetary benefits.

For Petitioner : Mr.P.Saravna Sowmiyan

For R1 : Mr.U.Baranidharan,
Additional Government Pleader

For R2 : Mr.M.S.Palanisamy

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. One Mr.C.Ganapathy was the President of the second



respondent Co-operative Credit Society, when an enquiry was held against the petitioner herein. In the present writ petition, the predominant ground raised by the learned counsel for the petitioner is that the aforesaid President had involved himself in the enquiry proceedings from the inception to the stage of punishment and as such, he would submit that the enquiry proceedings itself is vitiated.

3. It is not in dispute that the show cause notice framing the charges against the petitioner on 12.06.2014 was made by Mr.C.Ganapathy, the President of the second respondent Society and thereafter, the explanation of the petitioner was considered by the President. Not being satisfied with the explanation, the same President had chosen to appoint an Enquiry Officer and thereafter had sent a notice of enquiry, dated 25.07.2014 duly signed by him. The ultimate order of dismissal was also passed by the same President. All these facts are not disputed.

4. The learned counsel for the petitioner also places reliance on the enquiry report, which evidences the signature of the President along with the Enquiry Officer, which fact is disputed by the learned counsel appearing for the second respondent.

5. I do not intend to go into the veracity of the signature of the President found in the enquiry report. However, when an Enquiry Officer has been appointed, the President had no authority to send an enquiry notice on behalf of the Enquiry Officer to the delinquent, which is against the settled principles of law that no one can be a judge for his own cause. On this ground, the entire enquiry proceedings cannot be sustained.

6. Though the learned counsel for the petitioner has raised other grounds attempting to substantiate that the alleged charges does not cause any loss to the Society, this Court is of the view that those are matters which require to be substantiated on facts and evidences, which can be done only during the course of an enquiry. It is in this background, I am of the view that the Society can be granted liberty to proceed against the petitioner herein through a fresh enquiry, if they choose to do so.

7. At this juncture, the learned counsel appearing for the second respondent would bring it to the notice of this Court that in view of the Government Order issued in G.O.(Ms) No.14, Co-operation, Food and Consumer Protection (CN1) Department, dated 12.02.2019, the Joint Registrar of the Co-operative Societies would be the disciplinary authority, insofar as it relates to the employees in the common cadre.



8. In this background, the impugned orders dated 07.01.2015 and 16.02.2015, together with the charge memo dated 12.06.2014 issued by the second respondent herein, are quashed. The second respondent is at liberty to approach the first respondent herein seeking for a fresh enquiry against the petitioner herein by framing of new charges. Taking into consideration that the petitioner herein is now claimed to be at the verge of retirement, the Society shall take necessary steps to issue a charge memo atleast within a period of one month from the date of receipt of a copy of this order. Likewise, the Joint Registrar shall also initiate the department proceedings, in case any proceedings are forwarded to him from the second respondent and endeavour to complete the same, atleast within a period of 3 months from the date of receipt of such proposal.

9. With the above observations, the Writ Petition stands partially allowed. No costs.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

hvk

To:

The Joint Registrar of Co-operative
Societies,
Salem Region, Salem.

+lcc to M/s.P.Saravana Sowmiyan, Advocate, S.R.No.68457
+lcc to M/s.M.S.Palaniswamy, Advocate, S.R.No.68767
+lcc to the Government Pleader, S.R.No.68702

W.P.No.11171 of 2015

CP(CO)
SB(30/12/2021)