

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.04.2021
PRONOUNCED ON : 20.04.2021

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.21682 of 2010

M.Rajendran

..Petitioner

Vs.

- 1.The Revisional Authority/
Joint Registrar of Co-operative Societies,
Perambalur Region,
Perambalur-621 212.
- 2.Ty. Spl. 84, Kottiyal Primary Agricultural
Co-operative Credit Society Ltd.,
Special Officer, Kottaiyal-612 904,
Udaiyarpalayam Taluk,
Ariyalur District.
- 3.S.Rasalingam, Advocate,
Domestic Enquiry Officer,
Ty. Spl. 84, Kottiyal Primary Agricultural
Co-operative Credit Society Ltd.,
8-B, Chettiar Street, Paramathy Velur-638 182.
Namakkal District. ..Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the entire records relating to the impugned revisional orders passed by the first respondent in Na.Ka.5055/2009 Sa.Pa. dated 31.05.2010 confirming the order of dismissal from service passed by the second respondent dated 20.07.2009 based on the Domestic Enquiry Report dated 15.04.2009 submitted by the third respondent and to quash the same as null and void and consequently direct the second respondent to reinstate the petitioner into service with back wages, continuity of service and all other attendant benefits from the date of dismissal from service till the date of reinstatement.

For Petitioner : Mr.K.Prem Kumar
For Respondent-1: Mr.R.Balaramesh, GA
For Respondent-2: Mr.L.P.Shanmugasundaram
Standing counsel

O R D E R

The Writ Petition was heard through Video Conferencing on 17.04.2021. With the consent of the learned counsel for the parties, the case is taken up for final disposal.

2. The petitioner herein, who is an Assistant Secretary of Co-operative Societies, while deputed as Secretary in-charge of the second respondent society, was imputed with five charges through a charge memo dated 19.04.2008, predominantly on the ground that he had failed to detect the irregularities committed by the salesmen of the second respondent's society. Pursuant to an enquiry, the third respondent had filed a report dated 15.04.2009, holding all the five charges, as proved. The petitioner had given his objections to the inquiry report and on consideration of the same, the second respondent, through his order dated 20.07.2009, had dismissed the petitioner from the services with effect from 09.02.2009. The revision filed by the petitioner under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the Act'), against the order of dismissal, was also rejected on 31.05.2010. Both these rejection orders, are put under challenge in the present Writ Petition.

3. The grievance of the petitioner seems to be that the inquiry officer had drawn an inference from the inquiry report under Section 81 of the Act and found the charges to be proved. The learned counsel for the petitioner would submit that there was absolutely no evidence or incriminating materials during the departmental inquiry to substantiate that the petitioner had colluded with the salesmen for committing the irregularities alleged against him and therefore, the report of the inquiry officer, finding him guilty of the charges, is baseless.

4. When the petitioner herein had challenged the order of the second respondent dismissing him from the services, before the Revisional Authority under Section 153 of the Act, he had raised specific grounds stating that there was no material before the inquiry officer to substantiate that there was collusion between the petitioner and the salesmen. Apart from this ground, the petitioner had also raised various other grounds, challenging the inquiry officer's report, in his revision application dated 19.08.2009, filed before the first respondent herein.

5. It is a well established law that the Writ Court, exercising its powers under Article 226 of the Constitution of India, will not be justified in re-appreciating the evidence or factual findings of the inquiry officer, but rather would be empowered only to the limited extent of questioning the decision-making process and not the decision.

6. In the instant case, the grievance of the petitioner seems to be that the course adopted by the first respondent/Revisional Authority in not considering the grounds raised by the petitioner, would invalidate the order of the Revisional Authority itself. I find some force in such a contention. The first respondent herein, while exercising his powers under Section 153 of the Act, is bound to address all the grounds raised by the petitioner in the revision petition and thereby come to a conclusion. Contrary to such a requirement, the first respondent herein, through the impugned order dated 31.05.2010, had totally ignored all the grounds raised by the petitioner herein, but had ventured to give his independent findings and thereby, confirmed the order of the second respondent. Such a decision-making process is impermissible in law. In this background, this Court is of the view that the revision application of the petitioner dated 19.08.2009, requires reappraisal by the first respondent.

7. Since this Court intends to remand the matter back to the first respondent for reconsideration of the grounds raised in the revision application of the petitioner, the merits of such grounds raised in the present Writ Petition, which is akin to the grounds raised in the revision application, are not addressed.

8. In the light of the above observations, the impugned revisional order of the first respondent dated 31.05.2010 passed under Section 153 of the Tamil Nadu Co-operative Societies Act is set aside and the matter is remanded back to the first respondent for reconsideration. While reconsidering the same, the first respondent shall take into consideration all the grounds raised by the petitioner in the revision application dated 19.08.2009 and take further course of action in conformity with the procedure contemplated under the Act and conclude the proceedings, at-least within a period of three months from the date of receipt of a copy of this order. The Writ Petition, thus stands partially allowed. There shall be no orders as to costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

DP

To

1.The Revisional Authority/
Joint Registrar of Co-operative Societies,
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Perambalur-621 212.

2.Ty. Spl. 84, Kottiyal Primary Agricultural
Co-operative Credit Society Ltd.,
Special Officer, Kottaiyal-612 904,
Udaiyarpalayam Taluk,
Ariyalur District.

+1 cc to M/s. K.Premkumar, Advocate Sr.No. 23950

+1 cc to The Special Government Pleader, Sr.No. 24282

W.P.No.21682 of 2010

SSN(CO)
RMP (29/04/2021)



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