

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2021

CORAM

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.18475 of 2020

S. Santhanaraman

... Petitioner

-vs-

1. The Additional Secretary to the Government
Co-operation, Food and Consumer Protection Department,
Secretariat, Fort St.George,
Chennai 600 009.
 2. The Registrar,
O/o.The Registrar of Cooperative Societies
No.170, N.V.Natarajan Maaligai,
Periyar E.V.R.High Road,
Kilpauk, Chennai 600 010.
 3. The Joint Registrar,
O/o.The Joint Registrar of Cooperative Societies
Thiruvarur Zone, Thiruvarur Post,
Thiruvarur District.
 4. The President
T-1344, Needamangalam Primary Agricultural Co-op,
Credit Society,
Needamangalam Post,
Thiruvarur District 614 404.
- ... Respondents

Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the 1st respondent to dispose of the petitioner's revision in Ref.No.10394/CN/2020 dated 05.09.2020 on the file of the 1st respondent.

For Petitioner : Mr.K.Balaji

For Respondents : M/s.R.Balaramesh for R1, R3 & R4
No appearance for R2

ORDER

This writ petition has been filed, seeking a direction to the 1st respondent to dispose of the petitioner's revision in Ref.No.10394/CN/2020 dated 05.09.2020 on the file of the 1st respondent.

2. According to the petitioner he has been working as a Secretary in the Needamangalam Primary Agricultural Co-operative Credit Society. The fourth respondent/President has developed grudge and vandalism against the petitioner and subsequently acted with malicious and vexatious intentions to remove the petitioner from his position. Thereafter there was untoward incident of man handling and strangulation occurred against the petitioner and that too happened inside the premises of the Society. This made the petitioner to give a police complaint and that instigated the fourth respondent to act against the petitioner and served a suspension letter dated 29.07.2017, without any further communication upon the 'enquiry pendency'. The petitioner was put on untold hold for 3 months without even providing any subsistence allowance as per the service rules. This inhuman and immoral actions by the fourth respondent reflected in his baseless accusation of 13 frivolous charges made out in formal charge memo dated 25.10.2017.

3. Thereafter, the fourth respondent has appointed an officer to conduct the enquiry proceedings as per the service rules and the enquiry officer conducted the entire enquiry and issued a summon letter to the petitioner to appear before him for enquiry proceedings but unfortunately on that particular date the petitioner was out of station and the said summon letter from enquiry officer was returned back to him. But immediately knowing such information the petitioner wrote a letter 19.03.2018 to the enquiry officer but he concluded the process of enquiry and made the petitioner exparte. The Administrative Committee just for formalities issued a show case notice and subsequently issued an order of dismissal of service dated 10.04.2018. Thereafter the petitioner went for Revision Petition u/s.153 of the Tamil Nadu Co-operative Societies Act, 1983 but the revision was dismissed by the third respondent confirming the order of the fourth respondent. Thereafter the petitioner filed an appeal and the same has been rejected by the Registrar of the Cooperative Societies, Chennai vide his letter dated 24.03.2020 by stating that the petitioner can opt for Revision Petition u/s.153 of the Tamil Nadu Cooperative Societies Act, 1983 with the Additional Secretary to the Government of Tamil Nadu, Cooperative, Food and Consumer Protection/first respondent. However, the petitioner filed a Revision Petition under Section 153 as per the said Co-operative Societies Act before the first respondent dated 05.09.2020. From the date of filing this writ petition, the petitioner has not received any communication other than a communication of numbering the revision petition (Ref.No.10394/CN/2020) from the first respondent. Since there was no reply from the respondents the petitioner has approached this Court with the present writ petition.

4. Considering the facts and circumstances of the case and taking into account the fact that the petitioner's representation is already pending with the first respondents and if the representation is not already disposed of earlier, the Writ Petition is disposed of with the following directions:

i) A direction is issued to the first respondent herein to consider the representation preferred by the petitioner dated 05.09.2020 if the petitioner is found to be eligible and pass appropriate orders thereon, in accordance with law, after affording an opportunity of hearing to the petitioner and other persons, if any, who are likely to be affected, as expeditiously as possible, preferably within a period of 120 days from the date of receipt of a copy of this order;

ii) In case the petitioner is unable to appear for personal hearing, the petitioner is entitled to send a written submission within a period of one month from the date of receipt of a copy of this order through registered post or speed post and the same shall be treated as personal hearing. It is made clear that the petitioner can avail the opportunity of either personal hearing or filing written submission and not both;

iii) In case the petitioner fails to appear or file a written submission in time, the first respondent shall pass orders based on the available records and the petitioner, cannot at a later point of time take a stand that opportunity of being heard is not given to the petitioner;

iv) The petitioner shall furnish Mobile Number, email ID, if any, etc., along with a copy of the representation dated 05.09.2020 and this order, to the first respondent forthwith;

v) The first respondent is directed to communicate the decision taken on the representation, to the petitioner within a period of three weeks from the date of decision taken thereon, by way of SMS/Email/registered post/speed post, so that there is no need for the petitioner to file contempt after expiry of the specified period. In case the authorities concerned fail to send communication to the petitioner, they will have to face the civil imprisonment in case of contempt proceedings. If they are unable to serve the order and the cover being returned un-served for one reason or the other, the same shall be kept in the file without opening it for the proof of delivery, so that the petitioner, later on, will not take a plea that the petitioner is not aware of the order. No costs.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

To:

1. The Additional Secretary to the Government
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Chennai 600 009.
2. The Registrar,
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4. The President
T-1344, Needamangalam Primary Agricultural Co-op,
Credit Society,
Needamangalam Post,
Thiruvarur District 614 404.

+1cc to Mr.K.Balaji, Advocate SR.No.16935

+1cc to Government Pleader SR.No.16915

W.P.No.18475 of 2020

RK(CO)
GMY(02/07/2021)

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