



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2021

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.23985 of 2021

&

W.M.P.Nos.25294 & 25295 of 2021

A.Rajagopalan

... Petitioner

Vs.

1. Union of India
Represented by Home Secretary
Ministry of Home Affairs
North Block, New Delhi - 110001.
 2. The Secretary to Government of India
Legislative Department
Ministry of Law and Justice
A-Wing, Shastri Bhawan
New Delhi - 110001.
 3. The Joint Secretary to Government of India /
Central Registrar of Cooperative Societies,
Department of Agriculture and Cooperation,
Ministry of Agriculture, Room No.130,
Krishibhawan, New Delhi - 110001.
 4. The Repatriate Cooperative Finance &
Development Bank,
Rep. by its Managing Director,
Head Office at No.33, North Usman Road,
T.Nagar, Chennai - 600017.
- ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari SG or any other appropriate Writ or Direction or order in the nature of Writ to Quash the illegal amendment recommended by inconsistent (against MSCS Act) Board of Directors, passed by the expired General Body of 4th respondent Society and registered by 3rd respondent vide the Certification of Registration of Amendment bearing number F.No.L-11016/25/87-L&M dated 25.11.2019 against the object of the formation of the Repatriate Society (4th respondent herein) and quash the same.



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For Petitioners : Mr.B.Ullasavelan

For Respondents 1 to 3 : Mr.M.Karthikeyan

For Respondent 4 : Mr.A.Elangovan

O R D E R

The lis on hand has been instituted to quash the amendment dated 25.11.2019. The petitioner states that he is a "A" Class voting member of the 4th respondent, Cooperative Society, which is registered under the provisions of the Multi State Cooperative Societies Act, 2002.

2. The petitioner contends that the impugned amendment is without jurisdiction and affecting the rights of the members more specifically repatriates. Therefore, the amendment has to be quashed.

3. It is contended that the purpose and object of the constitution of the Multi State Cooperative Societies Act, 2002 for the benefit of repatriates is diluted and nomination of the existing board of directors of the 4th respondent is also inconsistent and in violation of the provisions of the Act. The term of the present general body expired on 30.06.2019 and therefore the policy decision and the impugned amendment is improper.

4. The impugned order is the Certificate of Registration of Amendment issued by the Joint Secretary to the Government of India and Central Registrar of Cooperative Societies on 25.11.2019. However, the petitioner has approached this Court by filing the present Writ Petition on 25.10.2021 after a lapse of about 2 years. Thus, the Writ Petition is hit by latches. Even otherwise also the petitioner admittedly has not exhausted the statutory appeal / remedy provided under the provisions of the Multi State Cooperative Societies Act, 2002. The petitioner if at all aggrieved shall approach the appellate authority by filing the statutory appeal / remedy contemplated under the Act. Procedure regarding the appeals are also contemplated under the rules.

5. Exhausting statutory remedy is of paramount importance. The amendment was issued in the year 2019. Further, the issues related to the amendment of bye-laws requires adjudication on merits more specifically with regard to



the documents and evidence. Such an elaborate adjudication cannot be made by the High Court in Writ proceedings under Article 226 of the Constitution of India.

6. The relevance and importance of the appeal / remedy statutorily provided that no circumstances be undermined by the Courts. The power conferred to the appellate authority must be exercised in the manner known to law in the interest of Justice.

7. Further, the litigants need not be deprived of their opportunities of adjudication of the issues before competent authority, wherein, they may get appropriate remedy. This Court entertaining the Writ Petition dispense with the appeal remedy is an exception and only in the event of any gross injustice or miscarriage of Justice, the High Court would be in a position to entertain the Writ Petition without exhausting the appeal remedy. However, the litigant is bound to exhaust the statutory remedy provided under the Act in the event of not exhausting the purpose and object of the legislation is diluted. Thus, this Court is of the opinion that the petitioner has to exhaust the appeal / remedy contemplated under the provisions of the Act.

8. In view of the above facts and circumstances, the petitioner is at liberty to prefer an appeal in the prescribed format in the manner known to law.

9. With these observations, the Writ Petition stands dismissed. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

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North Block,
New Delhi - 110001.



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4. The Repatriate Cooperative Finance &
Development Bank,
Rep. by its Managing Director,
Head Office at No.33, North Usman Road,
T.Nagar, Chennai - 600017.

+1cc to M/s.B.Ullasavelan, Advocate, S.R.No.58285

+2ccs to M/s.A.Ilangovan, Advocate, S.R.No.58259

W.P.No.23985 of 2021

KSM(CO)
SU(29/11/2021)