



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON:	23.02.2021
DELIVERED ON:	29.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD)No.23159 of 2019

and W.M.P. (MD) Nos.19868 & 20910 of 2019

(Through Video Conference)

WEB COPY

Q 1224 Melakidaram Primary Agricultural
Co-operative Credit Society Ltd.,
Melakidaram, Kadaladi,
Ramanathapuram District.
Rep. By its President.

... Petitioner

Vs

1) The Joint Registrar of Co-operative Societies,
O/o Joint Registrar of Cooperative Societies,
Collectorate Campus,
Ramanathapuram Post and District.

2) P.Sakthivel @ Palanieswaran

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 1st respondent in Na.Ka.2739/2019/Sa.Pa Revision Petition No.4/2019 dated 30.09.2019 and quash the same as illegal.

For Petitioner: Mr.M.Jerin Mathew

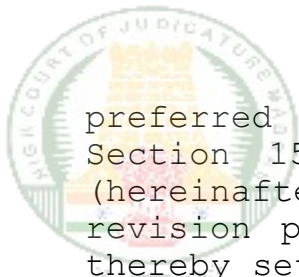
For R-1 : Mr.P.Mahendran,
Additional Government Pleader

For R-2 : Mr.R.Sethupandian

O R D E R

The second respondent herein, was appointed as a Salesman in the petitioner's Society on 13.05.1991. By a charge memo dated 16.01.2019, the second respondent was alleged to have secured employment as Salesman on the strength of forged educational certificates; that he had absented during the working hours and had used the help of third persons for distributing the commodities in the Fair Priced shops; and that he was in possession of 141 family cards and thereby sold the essential commodities for personal gain.

2. Based on an inquiry report dated 28.03.2019, charges against the second respondent were held to be proved and consequently, the petitioner had dismissed the second respondent through an order dated 08.05.2019. As against the same, the second respondent



preferred a revision before the first respondent herein under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983 (hereinafter referred as the 'Act'), which Authority had allowed the revision petition through the impugned order dated 30.09.2019 and thereby set aside the dismissal order and the petitioner herein, was directed to reinstate the second respondent into service. Challenging the revisional order of the first respondent, the present writ petition has been filed.

3. The Enquiry Officer had conducted a detailed inquiry and on the basis of the statements of the witnesses and documents, had come to the conclusion that the charges against the petitioner have been proved and accordingly, the petitioner herein had imposed the punishment of dismissing the 2nd respondent from service. It is not in dispute that the first respondent herein is vested with the jurisdiction and Authority under Section 153 of the Act and accordingly, the first respondent had reviewed the order of the Enquiry Officer and the consequential punishment of dismissal and had arrived at the conclusion that the charges against the petitioner relates to very old delinquencies and on appreciation of the evidences had also found that the Enquiry Officer had not properly appreciated the testimonials pertaining to the educational qualifications, as well as the alleged fake 141 family cards. The first respondent had also found that the punishment imposed by the petitioner was not proportionate to the gravity of the charges. In appreciation of the evidences before the Enquiry Officer, the first respondent had thought it fit to set aside the order of dismissal and directed to reinstate the second respondent back into service.

4. The petitioner herein had predominantly questioned the findings of the first respondent in this writ petition. According to the petitioner, the educational certificates produced before the Enquiry Officer reveals the petitioner's name as Sakthivel @ Palaneeswaran, whereas the petitioner's appointment order dated 13.05.1981 refers to his name as Palaneeswaran alone. The petitioner also relies on the report of the Additional District Collector in the personal inspection which states that the second respondent had absented himself during the working hours and was in possession of 141 forged family cards for his personal gain. The learned counsel submitted that the aforesaid aspects were not properly dealt with by the first respondent while revising the order under Section 153 of the Act.

5. The scope of the powers of this Court under Article 226 of the Constitution of India, while dealing with an revisional order passed under Section 153 of the Act, is very limited to the extent that the High Court could not act as an Appellate Forum, but would interfere only in grave cases where the Authority acts without jurisdiction or the enquiry proceedings are in violation of the principles of natural justice or suffers from an error apparent on the face of the record, ... etc.



6. The Hon'ble Supreme Court in the case of **G.Veerappa pillai vs. Raman and Raman Limited** reported in AIR 1952 SC 192 had laid down such scope for interference in the following manner:

"Such writs as are referred to in Article 226 are obviously intended to enable the High Court to issue them in grave cases where the subordinate tribunals or bodies or officers act wholly without jurisdiction, or in excess of it, or in violation of the principles of natural justice, or refuse to exercise a jurisdiction vested in them, or there is an error apparent on the face of the record, and such act, omission, error, or excess has resulted in manifest injustice. However extensive the jurisdiction may be, it seems to us that it is not so wide or large as to enable the High Court to convert itself into a Court of appeal and examine for itself the correctness of the decision impugned and decide what is the proper view to be taken or the order to be made".

This decision was followed by a three-Judge Bench of the Hon'ble Supreme Court in the case of **Radhey Shyam and another vs. Chhabi Nath & others** reported in (2015) 5 SCC 423.

7. The grounds raised by the petitioner touches upon the factual findings rendered by the first respondent while exercising his power under section 153 of the Act. In view of the well laid down law referred above reappraisal of the factual findings by this Court by exercising its powers under Article 226 of the Constitution of India, is impermissible. The petitioner has neither questioned the jurisdiction or authority of the first respondent in having passed this order, nor has he raised grounds of violation of principles of natural justice. On the other hand, the first respondent, had dealt with the Enquiry Officer's findings on all factual aspects and while reappraising the evidences had found the charges against the second respondent to be 'not proved'. Accordingly, the dismissal order has been set aside. I do not find any reason to interfere with such factual findings of the Statutory Revisional Authority.

8. In the result, there are no merits in the present writ petition. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To:

The Joint Registrar of Co-operative Societies,
O/o Joint Registrar of Cooperative Societies,
Collectorate Campus,
Ramanathapuram Post and District.

+1 CC to M/s.R.SETHU PANDIAN, Advocate (SR-14252[F] dated
29/03/2021)

Order made in
W.P. (MD) No.23159 of 2019

Dated:
29.03.2021

RK (21.04.2021) 4P 3C