



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.Nos.40546 & 40876 of 2016
and W.M.P.Nos.34556 & 34877 of 2016

W.P.No.40546 of 2016:

K.S.Chinnasamy

... Petitioner

Vs.

1.The Joint Registrar,
O/o. The Joint Registrar of Co-operative Societies,
Coimbatore.

2.The Special Officer,
No.2426, Ravuthar Primary Agricultural
Co-operative Credit Society,
Ravathur Post,
Irugur Via,
Coimbatore 641 103.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records and quash the impugned order of the 2nd respondent in his order dated 28.06.2010 and directing the 1st respondent to reinstate the petitioner in the 2nd respondent Society forthwith.

For Petitioner : Mr.S.Kolandasamy

For R1 : Mr.U.Baranidharan
(Additional Government Pleader)

For R2 : Mr.P.M.Duraisamy



W.P.No.40876 of 2016:

N.J.M K.S.Chinnasamy

... Petitioner

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Vs.

1.The Deputy Registrar,
Co-operative Societies,
Pollachi.

2.The Sub Registrar/Officer of Inspection,
Co-Operative Societies,
Pollachi.

3.The Presiding Office,
K-2426, Ravathur Primary
Agricultural Co-Operative Credit Society Ltd.,
Pollachi. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari, calling for the records of summon 15.10.2016 issued by the 2nd respondent and quash the same.

For Petitioner : Mr.N.Ponraj

For RR1 & 2 : Mr.U.Baranidharan
(Additional Government Pleader)

For R3 : Mr.P.M.Duraisamy

C O M M O N O R D E R

The petitioner has filed W.P.No.40546 of 2016, challenging his dismissal order passed by the Special Officer of Ravuthar Primary Agricultural Co-operative Credit Society dated 28.06.2010 and for a direction to the Joint Registrar of Co-operative Societies to reinstate him in the said Society forthwith.

The petitioner has filed W.P.No.40876 of 2016, challenging the summon dated 15.10.2016 issued by the Sub Registrar of the Co-operative Societies.



2. In both the Writ Petitions, the petitioner is one and the same. Hence, the Writ Petitions are disposed of by this common order.

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3. The petitioner was working as a Secretary in the Ravuthar Primary Agricultural Co-operative Credit Society. An enquiry under Section 81 was conducted for the irregularities alleged to have been committed by the petitioner in respect of crop loans, jewellery loans and payment of excess interest. Based on the enquiry report, surcharge proceeding was initiated and petitioner filed Co-Operative C.M.A.No.14 of 2010 before the Principal District Judge Coimbatore (Co-operative Tribunal), challenging the order passed in the surcharge proceedings. According to the petitioner, he was suspended from service on 04.08.2009 and subsequently, he was dismissed from service on 28.06.2010. He filed Revision before the Joint Registrar of Co-operative Societies under Section 153 of the Tamil Nadu Co-operative Societies Act (hereinafter referred to as, 'the Act'). The said revision was dismissed on 16.05.2011. The petitioner was acquitted in criminal case initiated against him. According to the petitioner, seven years after enquiry under Section 81 of the Act, the present summon is issued to the petitioner under Section 82 of the Act, to appear for enquiry. The petitioner is challenging the present summon in Writ Petition No.40876 of 2016 and order of dismissal dated 28.06.2010 in Writ Petition No.40546 of 2016.

4. The Special Officer and Presiding Officer of the Ravuthar Primary Agricultural Co-operative Credit Society, filed separate counter affidavits. Mr.U.Baranidharan, learned Additional Government Pleader appearing for the Co-operative Society and Mr.P.M.Duraisamy, learned counsel appearing for the said Society separately contended that the present summon is issued for inspection with regard to Micro Credit Loans granted during the tenure of the petitioner as Secretary and his inaction for recovery of the said amounts. The petitioner participated in the inspection conducted under Section 82 of the Act, inspection was completed and report was filed on 08.12.2016. Further, it is not correct to state that petitioner was acquitted in criminal case. On the other hand, he pleaded guilty and was convicted and he was let on, on Probation of Offenders Act, as he has paid entire amounts misappropriated by him. The learned Additional Government Pleader further submitted that against the order of dismissal dated 28.06.2010, the petitioner filed Revision under Section 153 of the Act before the Joint Registrar of Co-operative Societies and the same was



dismissed on 16.05.2011, by the Joint Registrar. The petitioner has not challenged the order of the Joint Registrar. After receiving the summons issued under Section 82 of the Act, the petitioner has filed the present Writ Petition in W.P.No.40546 of 2016, challenging the order of dismissal. Hence, both the Writ Petitions are not maintainable and prayed for dismissal of the same.

5. Heard the learned counsel appearing for the petitioner, learned Additional Government Pleader appearing for the Co-operative Societies as well as the learned counsel appearing for the Ravuthar Primary Agricultural Co-operative Credit Society and perused the entire materials available on record.

6. From the above materials, it is seen that the petitioner, in W.P.No.40546 of 2016, is challenging the order of dismissal dated 28.06.2010 and in W.P.No.40876 of 2016, is challenging the summon dated 15.10.2016 issued to him, calling upon him to appear for enquiry in respect of inspection under Section 82 of the Act. According to the petitioner, already, an enquiry was conducted under Section 81 of the Act and that present summon ordered after seven years of inspection under Section 81, is barred by limitation and is not valid. Both the grounds are not acceptable. As far as Section 81 enquiry is concerned, it was conducted for the alleged irregularities committed by the petitioner in respect of crop loans, jewellery loans and payment of excess interest. Whereas, Section 82 inspection is in respect of Micro Credit Loans. According to the respondents, already the petitioner participated in the proceedings and inspection was completed and report also was filed on 08.12.2016 itself, which is not disputed by the petitioner. In view of the same, W.P.No.40876 of 2016 is liable to be dismissed.

7(i). As far as W.P.No.40546 of 2016 is concerned, the petitioner is challenging the order of dismissal dated 28.06.2010. According to the petitioner, the Special Officer of the Ravuthar Primary Agricultural Co-operative Credit Society has no power to pass order of dismissal. The Special Officer has not conducted any domestic enquiry and no notice of enquiry was served on the petitioner. The Joint Registrar failed to consider that the Special Officer did not conduct any enquiry. According to the respondents, against the very same impugned order, the petitioner filed Revision under Section 153 of the Act before the Joint Registrar and the Revision was dismissed by the Joint Registrar on 16.05.2011. The petitioner has come out with the present Writ Petition, after receiving summons in the proceedings initiated under Section 82 of the Act.



7(ii).From the above materials, it is seen that the petitioner has already availed the remedy of Revision before the Joint Registrar. The Joint Registrar, after considering the materials placed before him, dismissed the Revision as early as on 16.05.2011. Having availed the remedy of Revision under Section 153 of the Act and after obtaining adverse order in the said Revision, without challenging the said order, it is not open to the petitioner to challenge the order of dismissal dated 28.06.2010 in the present Writ Petition. The petitioner is not entitled to the relief sought for in this Writ Petition. Hence, W.P.No.40546 of 2016 is liable to be dismissed.

Accordingly, both the Writ Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

gsa

To

- 1.The Deputy Registrar,
Co-operative Societies,
Pollachi.
- 2.The Sub Registrar/Officer of Inspection,
Co-Operative Societies,
Pollachi.
- 3.The Presiding Office,
K-2426, Ravathur Primary
Agricultural Co-Operative Credit Society Ltd.
Pollachi.
- 4.The Joint Registrar,
O/o. The Joint Registrar of Co-operative Societies,
Coimbatore.



5.The Special Officer,
No.2426, Ravuthar Primary Agricultural
Co-operative Credit Society,
Ravathur Post,
Irugur Via,
Coimbatore 641 103.

+2cc to Mr.P.M.Duraiswamy, Advocate Sr.23565, 23564
+1cc to the Government Pleader Sr.23847

W.P.Nos.40546 & 40876 of 2016

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srg 05/05/2022