



WEB COPY



W.P.No.31954 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.31954 of 2018

and

W.M.P.No.37190 of 2018

K-678, Coimbatore Co-operative Printing Work Ltd.,
Rep by its Managing Director/Co-operative Sub-Registrar,
Mr.V.Senthilnathan,
S/o.(Late) S.Vadivel,
No.1545, Trichy Road,
Coimbatore-641 018.

... Petitioner

-Vs-

1. The Joint Registrar of Co-operative Societies,
Coimbatore Region,
Coimbatore.

2. Mr.R.Subramaniam

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue Writ of Certiorari, calling for the records pertaining to the Impugned Order dated 05.02.2018 passed in Revision Petition No.2272 of 2016, V-2, on the file of Joint Registrar of Co-operative Societies, Coimbatore, the 1st Respondent herein, and quash the same.



W.P.No.31954 of 2018

WEB COPY

For Petitioner : Mr.R.Bharath Kumar

For Respondents :

For R1 : Mr.R.P.Murigan Raja

For R2 : Mr.S.Selva Thirumurugan

ORDER

The revisional order passed under Section 153 of the Tamil Nadu Cooperative Societies Act, in proceeding dated 05.02.2018 is under challenge in the present writ petition.

2. The petitioner is Coimbatore Cooperative Society Printing Works limited, which is a cooperative society registered under the provisions of the Tamil Nadu Cooperative Societies Act. The second respondent was holding the post of Manager In-charge of the petitioner Trust.

3. A charge memo was issued against the second respondent in proceeding dated 10.09.2015. The second respondent submitted his explanation on 28.09.2015, denying the charges. The second set of



W.P.No.31954 of 2018

charge memo was issued to the second respondent on 14.10.2015 and in respect of the charges, the second respondent again submitted his explanation on 17.11.2015. A large set of third charge memo was issued on 04.12.2015. All the charges were denied by the second respondent. Not satisfied with the explanation of the second respondent, the disciplinary authority appointed an enquiry officer, who in turn conducted an enquiry by affording opportunity to the second respondent and thereafter, submitted his enquiry report. The findings of the inquiry report were accepted by the disciplinary authority and the punishment of dismissal from service was imposed on the second respondent. Challenging the order of punishment, the second respondent preferred a revision petition under Section 153 of the Tamil Nadu Cooperative Societies Act. The said revision petition was allowed and challenging the said order, the present writ petition is filed by the management of the petitioner society.

4. The learned counsel for the petitioner mainly contended that the revisional order is perverse, since there is no appreciation of evidence or documents by the competent authority, which were marked by the petitioner management during the course of enquiry, under Section 153,



W.P.No.31954 of 2018

of the Act. The findings had arrived in a blanket manner and the second respondent employee was exonerated without any supporting evidence.

Thus, the order is to be set aside. It is further contended that the management filed all the relevant documents relating to the enquiry proceedings and such documents as well as the statement of the managements were not considered by the revisional authority which resulted in perversity and therefore, the order impugned is to be set aside.

5. The learned counsel for the second respondent objected to the said contentions by stating that the orders passed by the revisional authority are cogent and based on the evidence. The revisional authority considered the documents as well as the facts placed before them and formed an opinion and accordingly, set aside the punishment of dismissal from service issued to the second respondent. More specifically the revisional authority arrived at a conclusion that the punishment of dismissal from service is excessive and disproportionate to the gravity of the allegations against the second respondent and thus, there is no infirmity and the writ petition is to be rejected.



W.P.No.31954 of 2018

6. On perusal of the findings of the revisional authority in the impugned order, this Court is of an opinion that there is no reference regarding the documents relied upon and the statements of the respective parties to the revision. The bar under Section 153 is a quasi judicial power and therefore, the revisional authority has to consider the documents and evidence in its entirety for the purpose of forming a final opinion. In the event of arriving at a conclusion that the penalty is disproportionate or otherwise, there must be sufficient reasons for arriving at such conclusion. In the absence of any reason, merely arriving at a conclusion is unacceptable.

7. In the present case, the findings of the revisional authority reveal that the second respondent has not committed any such misconduct, misappropriation or otherwise and therefore, the punishment is excessive. Such a finding is neither candid nor a convincing one. For arriving at such a conclusion, appreciation of documents and evidence are required and such an effort has not been undertaken by the revisional authority. Thus, this Court is of an opinion that the matter is to be remanded back for fresh consideration and the revisional authority has to conduct adjudication with reference to the documents and evidence and the



W.P.No.31954 of 2018

reasons must be clearly recorded for forming a final opinion, more specifically with reference to the documents and evidence made available on record. The revisional order, passed while exercising the quasi-judicial power, cannot be issued like an administrative order and it must be akin to that of a judicial order, wherein the recording of documents and evidence are of paramount importance.

8. In view of the facts and circumstances, the order impugned passed by the first respondent in revision petition No.2272 of 2016, V-2, dated 05.02.2018, is quashed and the matter is remanded back to the first respondent for fresh consideration. Accordingly, the first respondent is directed to conduct an adjudication by affording opportunities to all the parties and pass a speaking order as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

9. The parties to the revision petition are directed to cooperate for early disposal of the revision proceedings. In the event of any non-cooperation, the same shall be recorded in the minutes itself and in such circumstances, such party adopting delay tactics would not be entitled to



W.P.No.31954 of 2018

get relief merely on the ground of delay in completing the revision proceedings.

10. With these directions, this writ petition stands **allowed**. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

25.11.2022
(2/2)

Index : Yes
Speaking order
sha

To

1. K-678, Coimbatore Co-operative Printing Work Ltd.,
Rep by its Managing Director/Co-operative Sub-Registrar,
Mr.V.Senthilnathan,
2. The Joint Registrar of Co-operative Societies,
Coimbatore Region,
Coimbatore.



WEB COPY



W.P.No.31954 of 2018

S.M.SUBRAMANIAM.J.,

sha

W.P.No.31954 of 2018

and

W.M.P.No.37190 of 2018

25.11.2022

(2/2)