



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.1823 of 2012

R.Subramanian

... Petitioner

Vs.

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

2. The Special Officer/ Joint Registrar,
Thudiyalur Co-operative Agriculture Service Society,
Thudiyalur, Chennai – 641 034.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the first respondent dated 08.09.2011 and made in R.P.No.2424 of 2011 confirming the order of dismissal of the second respondent dated 31.01.2011 and made in Na.Ka.No.676/2010/01 and quash the same.

For Petitioner : Mr. G.Nagarajan

For R1 : Mr. G.Ameedius,
Government Advocate



For R2

: Mr. L.P.Shanmuga Sundaram

ORDER

The petitioner herein, while working as a Junior Assistant in the second respondent/ society, was kept in-charge of the post of Manager of the second respondent on 25.08.2010. Alleging misappropriation of an amount of Rs.40,000/- by the petitioner from the locker of the second respondent, disciplinary proceedings were initiated against him, resulting in imposing punishment of dismissal from service through Proceedings in Na.Ka.No.676/2010/01 dated 31.01.2011 passed by the second respondent. Aggrieved by the said order passed by the second respondent, the petitioner herein filed an appeal under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the Act', 1983 for short) and the said appeal was rejected by the first respondent by passing orders in Proceedings in R.P.No.2424/2011/Ve2 dated 08.09.2011. Aggrieved by the said order and the primary order passed by the second respondent, the petitioner herein approached this Court by filing the present Writ Petition.

2. The main contention raised by the learned counsel for the petitioner



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is that the first respondent herein, while exercising its appellate power under Section 153 of the Act, 1983, failed to consider various contentions and grounds raised by the petitioner in the appeal filed by the petitioner, thereby great prejudice is caused to the petitioner. It is also contended that for want of consideration of the case of the petitioner, as raised before the appellate authority, the very purpose of providing statutory appeal under Section 153 of the Act, 1983 is defeated and the impugned order dated 08.09.2011 was passed in gross-violation of the principles of natural justice.

3. The learned counsel appearing for the respondents tried to supplement the reasons for passing the impugned order dated 08.09.2011 by assigning the reasons for the same in the counter affidavit filed by the respondents.

4. In the considered view of this Court, in terms of the settled legal position, the order passed by the quasi-judicial authority has to fall or sustain on the reasons assigned in the said order, but not basing upon the reasons supplemented by way of counter affidavit.



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5. This Court has gone through the appellate order passed by the first respondent dated 08.09.2011, which is running into about 18 pages, but the entire 17 pages of the said order is nothing but extraction of the grounds and contentions raised by either side and extraction of the written arguments filed by either side. In the operative portion, without there being any reference to the grounds and contentions raised on either side, by a cryptic order, confirmed the orders passed by the second respondent.

6. This Court is unable to comprehend the manner in which the appellate power conferred upon the first respondent under Section 153 of the Act, 1983 was exercised. By passing such a cryptic order, the very purpose of providing an appeal under Section 153 of the Act, 1983, which is also a first appeal and the final authority on the factual aspects is defeated and the petitioner is deprived of his valuable right of availing the remedy of appeal.

7. In the light of the above, this Court is of the considered view that the impugned order dated 08.09.2011 passed by the first respondent in Proceedings R.P.No.2424/2011/Ve2 is not sustainable and the matter is required to be considered afresh by the first respondent by duly affording an



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opportunity of personal hearing to the petitioner and the second respondent.

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8. Accordingly, this Writ Petition is allowed by duly setting aside the Proceedings in R.P.No.2424/2011/Ve2 dated 08.09.2011 passed by the first respondent and the matter is remanded back to the first respondent for considering the appeal filed by the petitioner under Section 153 of the Act, 1983 afresh by duly affording an opportunity of personal hearing to all the parties concerned. The first respondent is directed to dispose of the appeal filed by the petitioner as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order. There shall be no order as to costs. Miscellaneous Petitions, if any, shall stand closed.

11.12.2023

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Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Joint Registrar,
Tamil Nadu Co-operative Societies,
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Coimbatore.



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2. The Special Officer/ Joint Registrar,
Thudiyalur Co-operative Agriculture Service Society,
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MUMMINENI SUDHEER KUMAR, J.

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