



W.P. No. 7758 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 7758 of 2023

and

W.M.P. No. 8495 of 2023

A.Subramanian

... Petitioner

-VS-

1. The Registrar of Co-operative Societies,
No. 170, E.V.R. Highway,
Kipakkam, Chennai – 10.
2. The Joint Registrar of Co-operative Societies,
O/o. Joint Registrar Co-operative Society,
Collector Campus,
Villupuram.
3. The Deputy Registrar of Co-operative Societies,
Tindivanam Circle, Tindivanam,
Villupuram District.
4. The President,
CLSPL No. 130, Nagandur,
Primary Agricultural Co-operative Society Ltd.,
Nagandur Village and Post,
Gingee Taluk,
Villupuram – 605651.
5. The Secretary
CLSPL No. 130, Nagandur,
Primary Agricultural Co-operative Society Ltd.,
Nagandur Village and Post,
Gingee Taluk,
Villupuram – 605651.



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6. Kavitha

7. Dhanasekaran

8. The Sub-Inspector of Police,
Periyathachur Police Station,
Periyachur Post
Tindivanam.

9. T.Dhasarathan

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the Second Respondent vide Na. Ka. 5416/2020/sa. Pa dated 22.08.2022 and the consequential impugned order dated 03.11.2022 passed by the Fourth Respondent dismissing the Petitioner from the service and consequential directed the First to Fourth Respondents herein to reinstate the Petitioner into the service as Secretary I the Fourth Respondent Co-operative Society with effect from 03.11.2022 and grant all arrears of salary and other benefits.

For Petitioner : Mr. M.Venkadesh

For Respondents : Mr. B.Vijay,
Additional Government Pleader
(for R1 to R3)

Mr. B.Tamilnidhi,
Additional Government Pleader
(for R4 & R5)



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ORDER

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Heard Mr. M.Venkadesh, Learned Counsel for the Petitioner, Mr. B.Vijay, Learned Additional Government Pleader takes notice for the First to Third Respondents and Mr. B.Tamilnidhi, Learned Additional Government Pleader takes notice for the Fourth and Fifth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner, who was working as Senior Clerk and Secretary (i/c) of CLSPL No. 130, Nagandur Primary Agricultural Co-operative Society Ltd., Gingee Taluk, Villupuram – 605651, which is the Fourth Respondent was dismissed from service by Proceedings dated 03.11.2022, which is challenged in this Writ Petition.

3. At this juncture, it must be noticed that a revision could be preferred against any order passed by the Co-operative Societies before the jurisdictional Registrar under Section 153 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the Act' for short) and instead of availing that remedy, the Petitioner has filed this Writ Petition invoking Article 226 of the Constitution.



4. It would be necessary here to refer to the decision of the Hon'ble Supreme Court of India in ***Assistant Collector of Central Excise -vs- Dunlop India Limited*** [(1985) 1 SCC 260] where the legal position relating to the exercise of discretionary powers under writ jurisdiction has been succinctly explained in the following words:-

"3. Article 226 is not meant to short-circuit or circumvent statutory procedures. It is only where statutory remedies are entirely ill-suited to meet the demands of extraordinary situations as for instance where the very vires of the statute is in question or where private or public wrongs are so inextricably mixed up and the prevention of public injury and the vindication of public justice require it that recourse may be had to Article 226 of the Constitution. But then the Court must have good and sufficient reason to by-pass the alternative remedy provided by statute. Surely matters involving the revenue where statutory remedies are available are not such matters. We can also take judicial notice of the fact that the vast majority of the petitions under Article 226 of the Constitution are filed solely for the purpose of obtaining interim orders and thereafter prolong the



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proceedings by one device or the other. The practice
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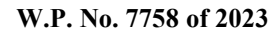
The law has been restated by the Hon'ble Supreme Court of India in ***Radha Krishan Industries -vs- State of Himachal Pradesh*** [(2021) 6 SCC 771] as extracted below:-

“27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well.

27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person.

27.3. Exceptions to the rule of alternate remedy arise where : (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged.

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an



27.6. *In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.”*

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6. The Petitioner has not been able to demonstrate from the facts of this case as to how he has been impeded from canvassing what is sought to be agitated in this Writ Petition in a revision under Section 153 of the Act, and the affidavit filed in support of the Writ Petition is also bereft of any details in that regard. Viewed from that perspective, this Court is not inclined to delve into the merits of the controversy involved in this case which touches upon disputed questions of fact for effectual and complete adjudication of the matter.

In the result, the Writ Petition, which cannot be entertained, is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

17.03.2023

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Index: Yes/No

Neutral Citation: Yes/No

Note: Issue order copy by 21.08.2023.

To

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Kipakkam, Chennai – 10.



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P.D. AUDIKESAVALU, J.

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