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W.P.No.28256 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2024

CORAM:

THE HONOURABLE MS. JUSTICE P.T.ASHA

W.P.No.28256 of 2014

and

M.P.No.1 of 2014

B.Rajaram

... Petitioner

Vs.

1.The Joint Registrar of Co-Operative Society,
Villupuram-"Region",
Villupuram.

2.The Special Officer,
CL, Spl-126, Manandal Primary Agricultural
Co-Operative Credit Society Ltd.,
Manandal-"Post",
Melmalayanur-"Via",
Gingee-"Taluk",
Villupuram-"District".

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the entire records insofar related to the impugned order passed by the 1st respondent herein in his proceedings



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Aa.Thi.Mu.No.5440/2012/Sa.Pa dated 27.08.2014 and to "Quash" the same and consequently direct the respondents to consider the revision petition filed by the petitioner dated 13.08.2014 under Section 153 of the Tamil Nadu Co-Operative Societies Act on merit. (Prayer amended as per order dated 25.02.2015 by KKSJ in M.P.No.1 of 2015 in W.P.No.28256 of 2014.)

For Petitioner : No Appearance

For Respondents 1 & 2 : Mr.S.Ravikumar,
Special Govt.Pleader(Co-op.)

ORDER

Originally, the above writ petition has been filed seeking to issue a writ of mandamus, directing the respondents to consider the revision petition filed by the petitioner dated 13.08.2014 under Section 153 of the Tamil Nadu Cooperative Societies Act and pass orders on merits thereon. Thereafter, the prayer was amended as one for certiorarified mandamus, calling for the entire records of the first respondent dated 27.08.2014 and to quash the same and consequently direct the respondents to consider the revision petition



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filed by the petitioner dated 13.08.2014.

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2. The brief facts of the case are that the petitioner who was working in the second respondent's Society as its Secretary between the period 01.01.1987 to 06.08.1992 was accused of certain irregularities for which charges had been framed by the second respondent on 18.06.1994. A show cause notice was thereafter issued to the petitioner. The petitioner had submitted his response to the said notice. The petitioner, on receipt of the notice, had sought for certain documents in order to enable him to prepare his explanation for the show cause notice. However, the first respondent had not provided copies of the documents and on the basis of the show cause notice, had concluded the enquiry on 02.08.1994 without giving the petitioner a right to address his objections to the show cause notice dated 18.06.1992.

3. The petitioner was thereafter directed to submit his



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explanation against the domestic enquiry report before the second respondent on 16.08.1994. The petitioner had, by his letter dated 23.08.1994, sought time for submitting his explanation. However, without granting the requisite time, the second respondent had come to the conclusion that the charges that had been framed is final and therefore, passed an order terminating the petitioner from service. This order was neither served to the petitioner in person or by post till the date of the filing of the writ petition.

4. The petitioner would submit that on 06.08.2014, the petitioner had submitted an application to the President of the Society for reinstatement. However, this request was not acceded to and therefore, the petitioner had filed a revision before the first respondent on 13.08.2014. The revision petition was returned on 27.08.2014 against which this writ petition has been filed.

5. A counter affidavit has been filed wherein apart from



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denying the contentions raised by the petitioner in the affidavit filed in support of this writ petition, the respondents would submit that under Section 153 of the Tamil Nadu Cooperative Societies Act (hereinafter called the Act), the revision petition has to be filed within 90 days along with the order, if any, issued by the second respondent. When the revision petition has been filed so belatedly, the first respondent had returned the same, vide order dated 27.08.2014. The first respondent would submit that the revision petition has been rejected firstly on the ground that it is beyond time and secondly, that the action of the respondents is not in violation of the fundamental rights, as it has been returned within the time stipulated under Section 153 of the Act.

6. The learned counsel for the petitioner had not appeared before this Court. This Court heard the arguments of the learned Special Government Pleader (Coop) appearing for the respondents.



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7. From the perusal of the records it appears that the petitioner has been placed under suspension with effect from 06.05.1992 and the charges were framed on 18.06.1994. Thereafter, the petitioner was dismissed from service with retrospective effect from the date of the suspension, i.e 06.05.1992. The second respondent had issued the final order. The petitioner had raised a dispute before the Assistant Commissioner of Labour, Chennai in I.D.No.25 of 1995 wherein the petitioner has accepted the receipt of the dismissal. Therefore, the contention of the petitioner that he has not received the notice of the order of termination is totally erroneous. The records would also show that simultaneously a criminal proceedings had also been initiated against the petitioner through the CCIW, Cuddalore before the Judicial Magistrate, Gingee, Villupuram District. While disposing the criminal proceedings on 14.05.2009 in C.C.Nos. 71 to 80 of 2000, the learned Judge had passed an order directing the Probation officer to monitor the petitioner's further



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activities. The petitioner had filed a petition before the second respondent on 06.08.2014 to consider his reinstatement. However, the said request was not heeded to and therefore, the petitioner had filed a revision before the first respondent on 13.08.2014. This petition has been returned on 27.08.2014 stating that it is beyond the period of 90 days.

8. The petitioner has filed a revision petition to re-consider the original order of dismissal in the light of the petitioner's acquittal. The first respondent instead of taking the revision petition on file, has returned the same, which is clearly without any basis. The first respondent ought to have numbered the petition, heard the petitioner and thereafter, passed an order. Without doing the above, the first respondent has simply returned the revision petition.

9. In such circumstances, the writ petition is allowed. The first respondent is directed to take on file the revision petition that has



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been filed by the petitioner on 13.08.2014 which has been returned on 27.08.2014 and pass orders on merits and in accordance with law, after affording an opportunity of hearing to the petitioner, within a period of eight weeks from the date of receipt of copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

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Index :Yes/No
Speaking Order: Yes/No
srn



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P.T.ASHA, J.,

srn

To

1.The Joint Registrar of Co-Operative Society,
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Villupuram.

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CL, Spl-126, Manandal Primary Agricultural
Co-Operative Credit Society Ltd.,
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