

(2020) 01 MP CK 0114
In the Madhya Pradesh High Court
Case No : Writ Petition No. 2025 Of 2020

Dinesh Kumar Verma

APPELLANT

Vs

State Of Madhya Pradesh And others

RESPONDENT

Date of Decision : 31-01-2020

Acts Referred:

Madhya Pradesh Cooperative Societies Act, 1960 — Section 55, 55(2)
Constitution Of India, 1950 — Article 226

Citation : (2020) 01 MP CK 0114

Hon'ble Judges : G.S. Ahluwalia, J

Bench : Single Bench

Advocate : Raghvendra Dixit, Purshottam Pandey

Final Decision : Dismissed

Judgement

This petition under Article 226 of the Constitution of India has been filed against the order dated 23.12.2019, by which the services of the petitioner have been terminated on the ground that he was illegally appointed dehors the rules and the provisions of the law. The petitioner is an employee of a Cooperative Societies, who was appointed on the post of Clerk.

Section 55 of M.P. Cooperative Societies Act reads as under:-

"55. Registrar's power to determine conditions of employment in societies.-(1) The Registrar may, from time to time, frame rules governing the terms and conditions of employment in a society or class of societies and the society or class of societies to which such terms and conditions of employment are applicable shall comply with the order that may be issued by the Registrar in this behalf.

Provided that in the case of co-operative credit structure, the Registrar may frame rules governing the terms and conditions of employment on the basis of the guidelines specified by the National Bank.

(2) Where a dispute, including a dispute regarding terms of employment working conditions and disciplinary action taken by a society, arises between a society and its employees, the Registrar or any officer appointed by him not below the rank of Assistant Registrar shall decide the dispute and his decision shall be binding on the society and its employees:

Provided that the Registrar or the officer referred to above shall not entertain the dispute unless presented to him within thirty days from the date of order sought to be impugned:

Provided further that in computing the period of limitation under the foregoing proviso, the time requisite for obtaining copy of the order shall be excluded."

Thus, from the plain reading of the above section, it is clear that the petitioner has an alternative remedy of raising a dispute.

However, it is submitted by the counsel for the petitioner that since the services of the petitioner have been terminated under the order of the Commissioner, Cooperative-cum-Registrar, Cooperative Societies, therefore, a dispute under Section 55(2) of the M.P. Cooperative Societies Act, is not an efficacious remedy and since the order of termination is without jurisdiction, therefore, this petition is maintainable before this Court in the light of the judgment passed by the Supreme Court in the case of Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai and others reported in (1998) 8 SCC 1.

Considered the submissions made by the counsel for the petitioner.

The Commissioner, Cooperative / Registrar, Cooperative Societies, by its order dated 04.09.2019 had directed that the informations/complaints are being received that certain persons were appointed dehors the rules / provisions of law.

Accordingly, it was directed that each and every case should be considered and if it is found that the appointment of a particular employee was dehors the rules and was a backdoor entry, then his services should be terminated with immediate effect.

The Supreme Court in the case of Secretary, State of Karnataka Vs. Uma Devi reported in (2006) 4 SCC 1 has condemned the backdoor entry in the public employment and has given option to the State Government to formulate a one time scheme for the regularization of those employees whose appointments were irregular.

So far as the illegal appointments are concerned, they are not to be protected. If the Registrar, Cooperative Societies has directed for examination of each and every case with a direction that in case of an illegal appointment, services of such an employee be terminated, then this Court is of the considered opinion that the direction to terminate the services of the illegally appointed employee is in consonance with the judgment passed by the Supreme Court in the case of Uma Devi (supra). However, the Registrar, Cooperative Societies has not given a

blanket order, but has directed the authorities to examine each and every case and only if it is found that the appointment of particular employee was illegal / backdoor entry, only then his services are liable to be terminated.

Under these circumstances, a pivotal question for consideration is that whether appointment of a particular employee was irregular or illegal. Therefore, it is held that the circular/letter dated 04.09.2019 issued by the Registrar, Cooperative Societies cannot be said to be a blanket order to terminate the services. A question that whether an appointment of an employee was irregular or illegal is to be decided from case to case basis and, accordingly, this Court is of the considered opinion that it is incorrect to say that the alternative remedy of raising a dispute under Section 55(2) of the Cooperative Societies Act would not be an efficacious remedy in the light of the order dated 04.09.2019 passed by Registrar, Cooperative Societies.

Accordingly, it is held that since the petitioner has an efficacious remedy of raising a dispute under Section 55(2) of the Cooperative Societies Act, therefore, this petition is dismissed with liberty to the petitioner that if he so desires, then he can raise a dispute under Section 55(2) of the M.P. Cooperative Societies Act.