
(1997) 04 SC CK 0135
In the Supreme Court Of India
Case No : SLP (C) No. 9143 of 1997

R.C. Tiwari

APPELLANT

Vs

M.P. State Co-operative Marketing Federation Ltd. and Others

RESPONDENT

Date of Decision : 09-04-1997

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 11
Industrial Disputes Act, 1947 — Section 10(1)
Madhya Pradesh Co-operative Societies Act, 1960 — Section 55

Citation : (1997) 04 SC CK 0135

Hon'ble Judges : K. Ramaswamy, J; D.P. Wadhwa, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. Delay condoned.

2. The only question in this case is: whether the reference u/s 10(1) of the Industrial Disputes Act, 1947 (for short, the "Act") is maintainable in view of the provisions contained in the M.P. Co-operative Societies Act, 1960 (for short, the 'Societies Act') ? Admittedly, the petitioner was dismissed from service for his misconduct. Thereafter, he sought a reference under the Societies Act which was confirmed and became final. On a reference made under the Act, the Labour Court in case No. 48/85 held that domestic enquiry was vitiated by illegality and accordingly it set aside the order of dismissal. In Writ Petition No. 2077/92 by judgment dated July 8, 1996, the High Court has held that in view of the provisions contained in Section 55 of the Societies Act, the Labour Court has no jurisdiction and, therefore, the reference is bad. It is also held that since the finding was accorded by the Deputy Registrar, Co-operative Societies against the petitioner in the award, it operates a res judicata. The question is whether the view taken by the High Court is correct in law. Section 55 of the Societies Act postulates thus :

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.

(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 the 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.

3. Learned counsel for the petitioner seeks to place reliance on Section 64 of the Act dealing with disputes referable to the arbitration and contends that the dispute of dismissal from service of the employee of the society being not one of the disputes referable to the arbitration under the Societies Act, the award of the Dy. Registrar is without jurisdiction. He relied on the decision of this Court in Co-operative Central Bank Ltd. and Others Vs. Additional Industrial Tribunal and Others, He also places reliance on Section 93 of the Societies Act which states that nothing contained in the Madhya Pradesh Shops and Establishment Act, 1958, the M.P. Industrial Workmen (Standing Orders) Act, 1959 and the M.P. Industrial Relations Act, 1960 shall apply to a Society registered under this Act. By necessary implication, application of the Act has not been excluded and that, therefore, the Labour Court has jurisdiction to decide the matter. We find no force in the contention. Section 55 of the Societies Act gives power to the Registrar to deal with disciplinary matters relating to the employees in the Society or a class of Societies including the terms and conditions of employment of the employees. Where a dispute relates to the terms of employment, working conditions, disciplinary action taken by a Society, or 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. As regards power u/s 64, the language is very wide, viz., "Notwithstanding anything contained in any other law for the time being in force any dispute touching the constitution, a management or business of a Society or the liquidation of a Society shall be referred to the Registrar by any of the parties to the dispute." Therefore, the dispute relating to the management or business of the Society is very comprehensive as repeatedly held by this Court. As a consequence, special procedure has been provided under this Act. Necessarily, reference u/s 10 of the Societies Act stands excluded. The judgment of this Court arising under Andhra Pradesh Act has no application to the facts for the reason that under that Act the dispute did not cover the

dismissal of the servants of the society which the Act therein was amended.

4. Admittedly, there is a finding recorded by the Dy. Registrar upholding the misconduct of the petitioner. That constitutes *res judicata*. No doubt, Section 11, CPC does not in terms apply because it is not a Court, but a Tribunal, constituted under the Societies Act is given special jurisdiction. So, the principle laid down thereunder *mutatis mutandis* squarely applies to the procedure provided under the Act. It operates as *res judicata*. Thus, we find that the High Court is well justified in holding that the Labour Court has no jurisdiction to decide the dispute once over and the reference itself is bad in law.

5. The SLP is accordingly dismissed.

Petition dismissed.