

(1968) 11 KAR CK 0016
In the Karnataka High Court
Case No : Writ Petition No. 845 of 1966

Shiddappa (H.S.)

APPELLANT

Vs

Assistant Registrar of Co-operative Societies and Another

RESPONDENT

Date of Decision : 08-11-1968

Acts Referred:

Citation : (1970) 1 LLJ 159

Hon'ble Judges : Ahmed Ali Khan, J;A.R. Somnath Ayyar, J

Bench : Division Bench

Judgement

Somnath Ayyar, J.—The petitioner is an employee of a co-operative society, and at one stage he was dismissed from service and that dismissal was questioned in Writ Petition No. 409 of 1955. During the pendency of that writ petition the Assistant Registrar of Co-operative societies in Chitradurga sent a communication to the society on 24 March, 1966 directing the society to keep the petitioner under suspension. In obedience to that mandate the society passed a resolution on 18 April, 1966 placing the petitioner under suspension. It is this order of suspension which is challenged in this writ petition.

2. Sri Datar tells us that in the earlier writ petition as compromise was reached between the society and the petitioner pursuant to which there has been a reinstatement of the petitioner. So Sri Datar submitted to us that even the impugned order of suspension has come to an end with such reinstatement. But Sri Lingappa appearing for the society made the submission that he has no information with respect to such reinstatement.

3. However that may be, the agreement advanced by Sri Datar that the society had no competence to place the petitioner under suspension cannot be sustained for the reason that even if, as argued by him, the provisions of the Co-operative Societies Act did not create power in the society to place its employees under suspension, the power to make an order of suspension flows from the relationship of master and servant which clearly existed between the petitioner and the society. That general power could be invoked by the society to make an

order of suspension, subject however to the condition that if the Act or the rules made thereunder do not make provision for the non-payment of the full pay and allowances payable to the petitioner, the order of suspension does not absolve the society from the payment of the pay and allowances in full to the petitioner during the period of suspension.

4. In that view of the matter, whether the petitioner has been reinstated or no, he is entitled, notwithstanding his suspension, to full pay and allowances which he would have received had he not been placed under suspension.

5. But Sri Datar complains that the petitioner has not been paid any pay or allowances at all during the period of suspension. So all that we need do in this writ petition is to issue a direction to the society that it shall now pay the full pay and allowances to which the petitioner was entitled for the whole period when he was kept under suspension. We make an order accordingly. In other respects this writ petition is dismissed.

6. No costs.