



W.P(MD)No.17740 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.07.2026

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

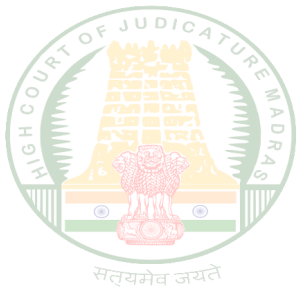
W.P(MD)No.17740 of 2018
and
W.M.P.(MD).No.15628 of 2018

- 1.M.Sahaya Venice
- 2.Sahaya Jose
- 3.Chirstilda
- 4.T.Jeeva
- 5.A.Mary Indhira
- 6.Chandira Kala
- 7.Ronikkam
- 8.T.Nagarajan

... Petitioners

Vs

- 1.The Deputy Registrar of Co-Operative Societies,
Nagercoil,
Kanyakumari.



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2.The Management,
Y-220 Maravan Kudiyiruppu Primary Agricultural
Co-Operative Credit Society,
Maravan Kudiyiruppu,
Nagarcoil,
Kanyakumari,
represented by its Special Officer

... Respondents

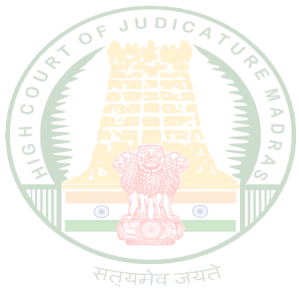
PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned notice issued by the first respondent in Na.Ka.796/2018/Sa Pa dated 04.06.2018 (received on 22.06.2018) and quash the same as illegal.

For Petitioners : Mr.M.E.Ilango
For R-1 : Mr.M.Mahaboob Athiff,
Counsel for State

ORDER

This Writ Petition has been filed challenging the impugned notice issued by the first respondent in Na.Ka.796/2018/Sa Pa dated 04.06.2018 (received on 22.06.2018)

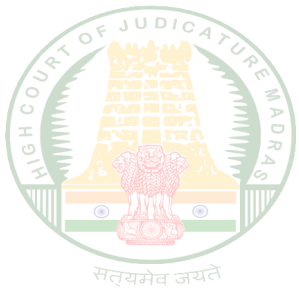
2. Heard Mr. M.E.Ilango, learned counsel appearing for the petitioners, and Mr. R.Ramasamy, learned Counsel for State takes notice for the first respondent.



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WEB COPY 3. The learned counsel appearing for the petitioners submitted that the first petitioner is the former President and the other petitioners are the erstwhile Board Members of the second respondent Society. According to him, the petitioners have been issued with a show cause notice under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, alleging that they had committed various irregularities in the affairs of the second respondent Society. It is his specific contention that the impugned show cause notice has been issued beyond the period of limitation prescribed under the Act and, therefore, the same is liable to be quashed.

4. Per contra, the learned Counsel for State appearing for the first respondent submitted that the impugned proceedings are only in the nature of a show cause notice calling upon the petitioners to submit their explanation. The allegations contained in the notice are only tentative in nature and do not determine the rights or liabilities of the petitioners. He further submitted that the petitioners have an effective opportunity to place all their objections, including the plea of limitation, before the competent authority in the surcharge proceedings. Therefore, the writ petition challenging a mere show cause notice is premature and not maintainable.



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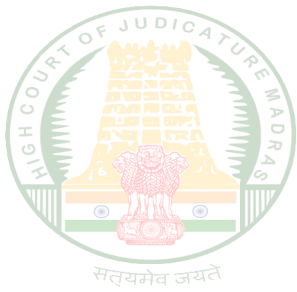
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5. This Court has carefully considered the submissions made on either side and perused the materials available on record.

6. In the following decisions, the Hon'ble Supreme Court has laid down the law as under:

(i) In State of U.P. v. Brahm Datt Sharma reported in 1987 (2) SCC 179, at Paragraph 9, held as follows:

"When a show cause notice is issued to a government servant under a statutory provision calling upon him to show cause, ordinarily the government servant must place his case before the authority concerned by showing cause and the courts should be reluctant to interfere with the notice at that stage unless the notice is shown to have been issued palpably without any authority of law. 'The purpose of issuing show cause notice is to afford opportunity of hearing to the government servant and once cause is shown it is open to the Government to consider the matter in the light of the facts and submissions placed by the government servant and only thereafter a final decision in the matter could be taken.



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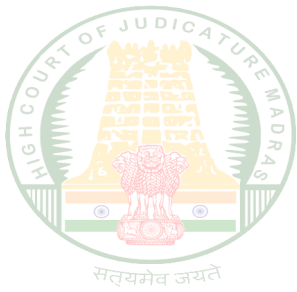
Interference by the court before that stage would be premature, the High Court in our opinion ought not have interfered with the show cause notice.

(ii) In *Whirpool Corporation v. Registrar of Trade Marks* reported in 1998

(8) SCC 1, the Supreme Court, held that,

"14. The power to issue prerogative writs under Article 226 of the Constitution is plenary in nature and is not limited by any other provision of the Constitution. This power can be exercised by the High Court not only for issuing writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari for the enforcement of any of the Fundamental Rights contained in Part III of the Constitution but also for “any other purpose”.

15. Under Article 226 of the Constitution, the High Court, having regard to the facts of the case, has a discretion to entertain or not to entertain a writ petition. But the High Court has imposed upon itself certain restrictions one of which is that if an effective and efficacious remedy is available, the High Court would not normally exercise its jurisdiction. But the alternative remedy has been consistently held by this Court not to operate as a bar in at least three contingencies, namely, where the writ petition has been filed for the enforcement of any of the Fundamental Rights or where there has been a



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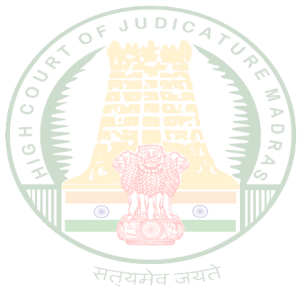
violation of the principle of natural justice or where the order or proceedings are wholly without jurisdiction or the vires of an Act is challenged.

20. Much water has since flown under the bridge, but there has been no corrosive effect on these decisions which, though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, specially in a case where the authority against whom the writ is filed is shown to have had no jurisdiction or had purported to jurisdiction without any legal foundation.

21. That being so, the High Court was not justified in dismissing the writ petition at the initial stage without examining the contention that the show-cause notice issued to the appellant was wholly without jurisdiction and that the Registrar, in the circumstances of the case, was not justified in acting as the “Tribunal”.

(iii) The Supreme Court in *Special Director v. Mohd. Ghulam Ghouse* reported in 2004 (3) SCC 440, at paragraph 5, held as follows:

"This Court in a large number of cases has deprecated the practice of the High Courts entertaining writ petitions questioning legality of the show-cause notices stalling



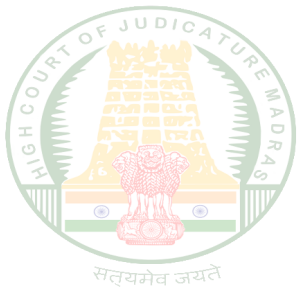
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enquiries as proposed and retarding investigative process to find actual facts with the participation and in the presence of the parties. Unless the High Court is satisfied that the show-cause notice was totally non est in the eye of the law for absolute want of jurisdiction of the authority to even investigate into facts, writ petitions should not be entertained for the mere asking and as a matter of routine, and the writ petitioner should invariably be directed to respond to the show-cause notice and take all stands highlighted in the writ petition. Whether the show-cause notice was founded on any legal premises, is a jurisdictional issue which can even be urged by the recipient of the notice and such issues also can be adjudicated by the authority issuing the very notice initially, before the aggrieved could approach the court. Further, when the court passes an interim order it should be careful to see that the statutory functionaries specially and specifically constituted for the purpose are not denuded of powers and authority to initially decide the matter and ensure that ultimate relief which may or may not be finally granted in the writ petition is not accorded to the writ petitioner even at the threshold by the interim protection granted."

(iv) In Union of India v. Kunisetty Satyanarayana, reported in 2006 (12)

SCC 28, the Supreme Court, held that,



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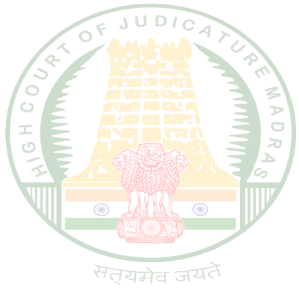
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"15. Writ discretionary jurisdiction jurisdiction and hence, is such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter."

7. In the light of the legal principles laid down by the Hon'ble Supreme Court as well as by the High Court in various decisions, the writ petition challenging the show cause notice is not maintainable.

8. Further, it is clear that the contention of the petitioner that the further proceedings in continuation of the show cause would be pre-determined cannot be acceptable. Further, the show cause notice has been issued to the petitioner for submitting explanation and the petitioner has a fair chance to make objections while submitting his explanation. Hence, the writ petition filed for the above said prayer is liable to be dismissed as not maintainable.



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WEB COPY 9. Accordingly, the writ petition is dismissed. However, liberty is granted to the petitioner to submit his explanation before the authority concerned within a period of six weeks from the date of receipt of a copy of this Order. Thereafter, the respondent shall consider the explanation independently and pass orders on merits and in accordance with law as expeditiously as possible within a further period of six weeks. Consequently connected miscellaneous petition is closed. No costs.

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NCC : Yes / No

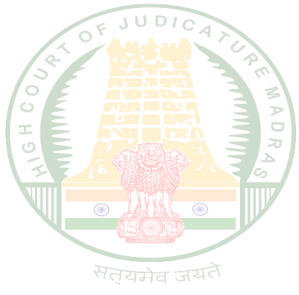
Index : Yes / No

TSG

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M.DHANDAPANI, J.

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