

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.21923 of 2013

&

M.P.No.1 of 2013

R.Kalaiselvi

... Petitioner

VS.

1. The Deputy Registrar of Co-operative Societies
Thirukoilur
Villupuram District
2. The Enquiry Officer
Kallakurichi Agricultural Co-operative Marketing Society
Kallakurichi
Villupuram District
3. The President
Kallakurichi Agricultural Co-operative Marketing Society
Kallakurichi
Villupuram District
4. Mr.R.Bhoopathy
Co-Operative Sub-Registrar (Ex.Enquiry Officer)
Kallkurichi Agricultural Co-Operative Marketing Society
Kallakurichi
Villupuram District
Respondents

...

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus or any other appropriate writ or order or direction in the nature of writ, restraining the 2nd respondent not to proceed further with the fresh enquiry under

Section 81 of the Co-Operative Societies Act since the 4th respondent has already completed and submitted the enquiry report on 16.02.2012.

(Prayer amended as per order of this Court in M.P.No.1 of 2014 dated 23.02.2015)

For Petitioner : M/s.S.Sairaman
For Respondents :M/s.T.P.Savitha
Govt. Advocate for R1
Mr.L.P.Shanmuga Sundaram
Spl. Govt. Pleader (Co-Op) for R2 and R3
Mr.K.J.Sivakumar for R4

ORDER

The amended prayer in the writ petition is for issuance of a writ of mandamus to restrain the second respondent not to proceed further with the fresh enquiry under Section 81 of the Co-operative Societies Act, since already an enquiry was completed and a report was submitted on 16.02.2012.

2. The petitioner was working as a Special Officer during the period from 15.05.2008 to 24.05.2011. She is said to have taken charge as Special Officer from the second respondent. There were certain allegations alleging certain lapses in an auction conducted by the third respondent society. To enquire into the allegation, the fourth respondent was appointed as an Enquiry Officer, who is said to

have conducted the enquiry and also recorded the deposition of the petitioner on 20.01.2012. The enquiry report has also been submitted in accordance with the rules.

3. The petitioner's grievance is that after a lapse of about 18 months, she received summons from the second respondent in respect of the same allegations for conducting a fresh enquiry in respect of which the fourth respondent had conducted and concluded the enquiry. The petitioner is said to have appeared before the Enquiry Officer and given a written representation requesting him to furnish a copy of the Enquiry Report submitted by the fourth respondent for the enquiry, which was conducted in January 2012. Since the report was not furnished, the petitioner filed this writ petition initially praying for a direction to the second respondent to furnish enquiry proceedings dated 06.01.2012 and the result of the enquiry initiated under Section 81 of the Tamil Nadu Co-operative Societies Act. Subsequently, the prayer has been amended as mentioned above.

4. In paragraph 4 of the counter affidavit filed by the first respondent, it has been stated that the earlier enquiry report dated 16.02.2012 was examined and found to be defective and not in

accordance with law. Therefore, the said report was withdrawn vide proceedings of the first respondent dated 20.06.2013 and it was informed to the petitioner as well as the Enquiry Officer. Further, it is stated that the Deputy Registrar has authority to take decision to withdraw or ignore the report, which was found to be defective and not in consonance with law. Therefore, a stand is taken that the earlier enquiry report is not necessary and need not be furnished. Thus, from the stand taken by the first respondent, it is clear that an enquiry was conducted and a report has been submitted on 16.02.2012. If such a report has been submitted, the petitioner is entitled to receive a copy of the same. However, this Court is conscious of the fact that the first respondent has scarpred the report and has found the same to be defective and incomplete. Even if it is held to be so, there is no ground to refuse the copy of the report. Mere furnishing of the copy of the report to the petitioner will not make the report get validated. If the petitioner is able to get the report, she will be in a position to raise certain points, which she may be entitled to raise.

5. Accordingly, the writ petition is disposed of directing the first respondent to furnish the enquiry report dated 16.02.2012 to the petitioner within a period of three weeks from the date of receipt of a

copy of this order. It is made clear that mere furnishing of the report does not mean that the report is legally valid as the same has already been withdrawn by the first respondent vide its proceedings dated 20.06.2013 since the report was defective and incomplete. After the furnishing of the report, the respondents are entitled to proceed in accordance with law. No costs. Consequently, the connected miscellaneous petition is closed.

20.07.2015

Index:yes/no
Internet:yes/no
gpa

To

The Executive Engineer (Operation and Maintenance)
Udumalai Electricity Distribution Circle
Dharapuram
Tirupur District

T.S.SIVAGNANAM.J.,

gpa

W.P.No.21923 of 2013 &
M.P.No.1 of 2013

20.07.2015