



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.01.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P. (MD) No.994 of 2015

S.Arumuganainer

: Petitioner

Vs.

1.The Registrar of Co-operative Societies,
Poonamalli High Road, Kilpauk, Chennai 10.

2.The Managing Director,
Tuticorin District Central Co-operative Bank,
109/5D Ettayapuram Road,
Polepettai, Tuticorin 628 002.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for the issue of a Writ of Mandamus directing the first respondent to take necessary action against the erring officials of the second respondent - Co-operative Bank by conducting an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, based on the petitioner's representation dated 09.10.2014.

For Petitioner : Mr.S.M.Mohan Gandhi

For Respondent No.1 : Mr.R.Karthikeyan
Additional Government Pleader

For Respondent No.2 : Mr.D.Shanmugaraja Sethupathi

O R D E R

Mr.R.Karthikeyan, learned Additional Government Pleader, takes notice for the first respondent and Mr.D.Shanmugaraja Sethupathi, learned counsel, takes notice for the second respondent. By consent, the Writ Petition is taken up for disposal at the stage of admission itself.

2. The petitioner has come up with the present Writ Petition seeking a Writ of Mandamus directing the first respondent to take necessary action against the erring officials of the second respondent - Co-operative Bank by conducting an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, based on his representation dated 09.10.2014.

3. According to the petitioner, he is one of the Board of Directors of Tuticorin District Central Co-operative Bank. There were several irregularities committed by the officials of the second respondent - Co-operative Bank, for which the petitioner has sought for certain details



under the Right To Information Act, 2005, which was denied. Therefore, he has filed an appeal, which is pending. In the meanwhile, the petitioner submitted a representation on 09.10.2014, before the first respondent with a request to take appropriate action against the erring officials of the second respondent - Co-operative Bank, by conducting an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, [for brevity, "the Act"]. Since no action has been taken, the petitioner is before this Court.

4. The learned counsel appearing for the second respondent would raise a preliminary objection that the Writ Petition is not maintainable as against a Co-operative Society, in view of the Judgment rendered by a Larger Bench of this Court in **Marappan K. v. The Deputy Registrar of Co-operative Societies, Namakkal, reported in [2006(4) CTC 689]**, as under Section 81 of the Act, the Registry may, of his own motion and shall, on the application of a majority of the Board or not less than one-third members or on the request of the financing bank or of the District Collector, hold an enquiry or direct some person authorized by him. But, in the case on hand, there is no complaint under Section 81 of the Act.

5. The learned Additional Government Pleader appearing for the first respondent would only contend that if the irregularities committed by the erring officials of the second respondent - Co-operative Bank are brought to the knowledge of the authority concerned, the same will be looked into and appropriate action will be taken by the authority concerned, in accordance with law.

6. Even though, at the outset, it is stated that the Writ Petition is not maintainable, a perusal of Section 81 of the Act would show that the power is vested with the first respondent to take appropriate action even by *suo motu*, if the irregularities committed by the erring officials of the second respondent - Co-operative Bank are brought to the knowledge and therefore, this Court is of the view that the first respondent is the competent authority to take any action even *suo motu* if any misdeeds are brought to his notice.

7. In such view of the matter, the Writ Petition is disposed of, with an observation that the first respondent will independently consider the representation of the petitioner dated 09.10.2014 and pass appropriate orders on merits and in accordance with law and if there are any tangible materials placed before the authority concerned, it is for the authority concerned to decide the issue purely on merits, of course giving notice to all parties concerned No costs.

Sd/
Assistant Registrar

/True copy/

sub Assistant Registrar(c.s)



To

1. The Registrar of Co-operative Societies,
Poonamalli High Road, Kilpauk, Chennai 10.

2. The Managing Director,
Tuticorin District Central Co-operative Bank,
109/5D Ettayapuram Road,
Polepettai, Tuticorin 628 002.

+1cc to Mr. S.M.Mohan Gandhi, Advocate in SR.No. 4102

+1cc to Mr. D.Shanmugaraja Sethupathi, Advocate in SR.No. 4084

+1cc to Special Government Pleader in SR.No. 4199.

TS/23.02.2015/3P-6C

ORDER MADE IN
W.P. (MD) No. 994 of 2015

DATED - 29.01.2015