

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATE: 21-09-2016

CORAM

THE HONOURABLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.10388 of 2013
and
M.P.No.1 of 2013

S. Velavan

.. Petitioner

Vs

1.The Joint Registrar of Coop. Societies
Tiruvallur Region, Backside of Collector Complex
Tiruvallur, Tiruvallur District.

2.The Deputy Registrar of Coop. Societies
Tiruvallur Circle, Backside of Collector Complex
Tiruvallur, Tiruvallur District.

3.The Domestic Enquiry Officer
Vellavedu Primary Agricultural
Coop. Credit Society, Vellavedu, Chennai.

4.The Administrator
Vellavedu Primary Agricultural
Coop. Credit Society, Vellavedu
Chennai.

.. Respondents

Prayer : The writ petition is filed to issue a Writ of Mandamus, directing the respondents to consider and pass orders on merits by disposing the written representation made by the petitioner on 15.3.2013 and 29.3.2013 within a stipulated time.

For Petitioner : Mr. C. Prakasam
for Mr.Badri Narayanan
For Respondents Nos.1 to 3 : Mr.V. Selvaraj
Addl. Govt. Pleader
For Respondent No.4 : Mr.L.P. Shanmuga Sundaram

O R D E R

Heard.

2. This writ petition has been filed, praying that this Court may be pleased to issue a Writ of Mandamus, directing the respondents to consider and dispose of the representations made by the petitioner, dated 15.3.2013, and 29.3.2013, within

the stipulated time.

3. The petitioner has stated that he had been appointed, as a clerk, in the Vellavedu Primary Agricultural Cooperative Credit Society. Thereafter, he had been promoted, as the Secretary of the said Society, during the year, 2006.

4. While so, the first respondent had ordered an enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983, relating to the issuance of a jewel loan. However, no details relating to the enquiry have been furnished to the petitioner. Hence, the petitioner had filed a Writ Petition, in W.P.No.14334 of 2012.

5. By an order, dated 5.6.2012, passed in W.P.No.14334 of 2012, this Court had directed the first respondent, to furnish the details sought by the petitioner in his representation, dated 27.4.2012, within a period of two weeks from the date of the said order. It had also directed the respondents to proceed with the enquiry, after furnishing the details to the petitioner. However, as the details relating to the enquiry, as required by the petitioner, had not been furnished to him, he had sent two representations, dated 15.3.2013, and 29.3.2013, to the fourth respondent. However, as there was no response, from the fourth respondent, the petitioner has preferred the present writ petition, before this Court, under Article 226 of the Constitution of India.

6. A counter affidavit, dated 7.10.2013, had been filed on behalf of the fourth respondent, denying the claims made by the petitioner.

7. Paragraphs Nos.1 and 2 of the counter affidavit read as follows:-

(1) I humbly state that I am the fourth respondent herein and I am fully acquainted with the facts of the above case from records. I am swearing the counter affidavit on my behalf. At the outset, the above writ petition is frivolous, mischievous and intended to achieve further delaying of the process of the surcharge proceedings initiated against him. Whatever the copies of the orders asked by the petitioner were furnished with by way of copy and some of the documents were given to them by allowing the petitioner to peruse the same. Still with the sole object of delaying the process this writ petition has been filed and the same is deserved to be dismissed.

2. The petitioner was initially appointed as the Clerk on temporary basis and thereafter the appointment was irregularly made and thereafter, he was promoted as the Secretary. He was charged with the allegation of misappropriating more than Rs.67 lakhs and was suspended from service from 23.8.2012. The charge of misappropriation of funds of the society was ended with filing of criminal case and the same is pending on the file of the Judicial Magistrate, Poonamallee. At this juncture when proceedings under Section 81 were initiated and several summons were issued and the petitioner failed and neglected to appear and answer. Now the surcharge proceedings also initiated and at this length of time the petitioner devising a novel idea of frivolously filing applications for furnishing documents etc. and thereby aiming at delay the process of law. "

8. From the above averments, it is noted that the petitioner had been given sufficient opportunity to peruse the records, relating the enquiry proceedings initiated against him. Further, an order had been passed by this Court, on 3.8.2012, in W.P.No.21187 of 2012, directing the Deputy Registrar of Cooperative Societies, Tiruvallur Circle, to furnish the necessary documents relied upon by the petitioner. Even though, he had been permitted to peruse the documents relating to the enquiry, he had failed to do so.

9. In such circumstances, this Court is of the considered view that the present writ petition has been filed by the petitioner, with a view to drag on the enquiry proceedings initiated against him.

10. In view of the averments made in the counter affidavit filed on behalf of the first respondent and in view of the fact that the petitioner is alleged to have committed misappropriation of funds, to the tune of Rs.67.00 lakhs, this Court does not find any cause or reason to grant the relief, as prayed for by the petitioner, in the present writ petition.

11. In such circumstances, this Court finds it appropriate to direct the third respondent, to conduct the enquiry and complete the same, against the petitioner, under the provisions of Section 87 of the Cooperatives Act, 1983, within a period of eight weeks from the date of receipt of a copy of this order. The petitioner shall cooperate in the enquiry to be conducted by the third respondent.

The writ petition is dismissed, with the above directions.
No costs. Consequently, connected M.P. is also dismissed.

rnb

s/d-
Assistant Registrar

/True Copy/

Sub-Assistant Registrar

To

1.The Joint Registrar of Coop. Societies
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3.The Domestic Enquiry Officer
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Coop. Credit Society, Vellavedu, Chennai.

4.The Administrator
Vellavedu Primary Agricultural
Coop. Credit Society, Vellavedu
Chennai.

+ 1 cc to Mr. C.Prakasam, Advocate Sr 54029

+ 1 cc to Mr.L.P. Shanmuga Sundaram, Advocate Sr 53692

+ 2 ccs to The Govt.Pleader, Sr 53808, 54464

KR/22/10/16

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