

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.6.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.9036 of 2017 and W.M.P.No.9952 of 2017

K.Ravichandran

... Petitioner

Vs.

- 1 The Deputy Registrar of Co-operative Societies,
Villupuram Circle, Villupuram,
Villupuram District.
- 2 The Enquiry Officer/Field Officer,
Co-operative Sub Registrar,
Kandamangalam Block,
O/o Deputy Registrar of Co-operative Societies,
Villupuram Circle, Villupuram Dist. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.330/2011/Ku.Na., dated 17.3.2017 and quash the same.

For Petitioner : Mr.C.Prakasam
For Respondent No.1 : Ms.T.Girija, G.A.
For Respondent No.2 : Mr.L.P.Shanmugasundaram

O R D E R

According to the petitioner, petitioner was appointed as Sub Staff in the Cuddalore District Central Cooperative Bank on 5.2.1996 and subsequently, the petitioner was promoted as Assistant in the year 2001 and the petitioner was posted in the Villupuram District Central Cooperative Bank. Subsequently in the year 2008, the petitioner was promoted as Assistant Manager and subsequently the petitioner was promoted as Manager in the year 2013. While the petitioner was discharging his duties as Manager in Villupuram District Central Cooperative Bank, Main branch, a cheque was presented by one of the customer of

Tirukoilur branch account holder in the ICICI Bank, Tindivanam in favour of Sriram Finance and the said cheque was forwarded to head office of the Villupuram District Central Cooperative Bank under CTS system. Without verifying the balance amount of the account holder, who issued cheque in favour of Sriram Finance, petitioner honoured the cheque by mistakenly on 7.2.2014 and caused loss to the bank to the tune of Rs.1,57,500/-.

2 Therefore, the first respondent ordered enquiry under Section 81 of the Tamilnadu Cooperative Societies Act and appointed the second respondent as enquiry officer. In such circumstances, petitioner has filed W.P.No.43 of 2017. By order, dated 4.1.2017, this Court directed the second respondent to consider the representation of the petitioner, dated 17.11.2016 on merit and in accordance with law and pass orders within a period of two weeks from the date of receipt of a copy of this order and till such time, defer the further proceedings in terms of the impugned summons, dated 28.11.2016. In the meantime, the second respondent has submitted a report to the first respondent and the first respondent issued show cause notice under Section 87 of the Act in Proceedings Na.Ka.330/2011/Ku.Na, dated 17.3.2017 to the petitioner. Challenging the show cause notice, the petitioner has filed the present writ petition before this Court.

3 The learned counsel for the petitioner would submit that without giving opportunities to the petitioner, the first respondent ordered enquiry under Section 81 of the Tamilnadu Cooperative Societies Act. Without complying with the order passed in W.P.No.43 of 2017, petitioner was issued summons to appear before the second respondent on 9.11.2016. Therefore, the impugned show cause notice, dated 17.3.2017 violating the order, dated 4.1.2017 passed by this Court in W.P.No.43 of 2017 is liable to be quashed.

4 On the contrary, the learned Government Advocate would submit that enquiry report was submitted to the first respondent. On receipt of the enquiry report, show cause notice under section 87 of the said act has been issued to the petitioner. According to him, petitioner's representation, dated 17.11.2016 was not received by the second respondent. However, he agreed that the final order passed in W.P.No.43 of 2017 has been received. Hence, the contention of the petitioner is liable to be rejected.

5 The impugned show cause notice, dated 17.3.2017 has been issued to the petitioner by the first respondent for submitting his explanation. According to the learned Govt. Advocate at the stage of enquiry, petitioner cannot seek for the documents since enquiry is a fact finding authority, the copy of the report will be furnished to the petitioner at the stage of enquiry under

Section 87 of the Tamilnadu Cooperative Societies Act. Apart from that the first respondent also furnish necessary documents to the petitioner if any request made by the petitioner.

6 Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents and perused the materials on record.

7 In the facts and circumstances of the case, it is necessary to furnish relevant documents to the petitioner for submitting his explanation to the show cause notice. Therefore, the first respondent is directed to furnish relevant documents to the petitioner within four weeks time from the date of receipt of copy of this order. Thereafter, the first respondent shall grant sufficient time to the petitioner for submitting his explanation to the impugned show cause notice, dated 17.3.2017.

Accordingly, the writ petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Deputy Registrar of Co-operative Societies,
Villupuram Circle, Villupuram, Villupuram District.
- 2 The Enquiry Officer/Field Officer,
Co-operative Sub Registrar,
Kandamangalam Block,
O/o Deputy Registrar of Co-operative Societies,
Villupuram Circle, Villupuram Dist.

+1cc to Mr.L.P.Shanmugasundaram, Advocate SR.No.45835
+1cc to Government Pleader SR.No.45977
+1cc to Mr.C.Prakasam, Advocate SR.No.46065

W.P.No.9036 of 2017
and W.M.P.No.9952 of 2017

GN(18/07/2017)