

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No. 10621 of 2016

K.Kaveri,
President,
D D 151, Karimangalam Labour
Contract Society,
Karimangalam,
Palacode,
Dharmapuri District. ... Petitioner

vs.

The Joint Registrar of
Co-operative Societies,
Dharmapuri Region,
Dharmapuri. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the records relating to the show cause notice Na Ka No.2405 of 2015 SA Pa dated 29.02.2016 of the respondent issued under Section 36 of the Tamil Nadu Co-op. Societies Act, 1983 and quash the same.

For Petitioner : Mr.S.Venkataraman

For Respondent : Mr.T.Girija, Govt. Advocate

ORDER

The petitioner has filed this writ petition to call for the records relating to the show cause notice Na Ka No.2405 of 2015 Sa Pa dated 29.02.2016 of the respondent issued

under Section 36 of the Tamil Nadu Co-operative Societies Act, 1983 and quash the same.

2. The learned counsel for the petitioner submitted that the Karimangalam Labour Contract Society came under the control of the Board on 9.5.2013 and thereafter, the petitioner was elected as President of the said Society. From 1.4.2008 onwards, the society was under the control of the Special Officers and Mr.Mohan, Secretary (i/c) had the complete incharge of the affairs of the society. Hence, the petitioner is not responsible for the alleged loss sustained by the society for the period from 09.05.2013 to 05.11.2014. Moreover, even though the entire surcharge amount has been paid by K.Mohan, Assistant/Secretary (I/c) of the society, the respondent initiated action against the petitioner by issuing a show cause notice dated 29.02.2016 under Section 36 of the Tamil Nadu Co-operative Societies Act, 1983 and the same is not sustainable. Hence, the petitioner has challenged the impugned show cause notice dated 29.02.2016 by way of filing the present writ petition.

3. The learned Government Advocate submitted that the impugned notice issued by the respondent is only a show cause notice and the petitioner has to submit her explanation for the same. Hence, she cannot challenge the impugned notice before this Court and at this stage, this Court may not entertain the writ petition on the ground that the impugned show cause notice issued by the respondent cannot be interfered with by this Court. He further submitted that on receipt of such explanation, the respondent shall consider the same and pass orders on merits and in accordance with law.

4. On perusal of the records, this Court finds that there is no prima facie material before this Court to interfere with the show cause notice at this stage. Hence, this Court is not inclined to interfere with the impugned show cause notice issued by the respondent.

5. Taking into consideration the facts and circumstances of the case and the submissions made by the learned Government Advocate, this Court is inclined to give liberty to the petitioner to submit her explanation. Accordingly, liberty is given to the petitioner to submit

her explanation before the authority concerned within a period of two weeks from the date of receipt of a copy of this order. On receipt of the explanation submitted by the petitioner, the respondent is directed to consider the same and pass appropriate orders on merits and in accordance with law within a period of eight weeks thereafter.

6. With the above said directions, the writ petition is disposed of. No costs.

Sd/

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

The Joint Registrar of
Co-operative Societies,
Dharmapuri Region,
Dharmapuri.

+1cc to Mr.S.Venkataraman, Advocate SR.No.217223

+1cc to Government Pleader SR.No.17742

SDR 24.04.2017

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सत्यमेव जयते

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