IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2017

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THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.9528 of 2017 and
WMP.No.10462 of 2017

C.George,
President,
C.950, Vellore District Police Department,
Vellore-9. ..Petitioner

Vs.

1. The Additional Secretary / Director of Cooperative Audit, (Full Addl.Charge), Directorate of Cooperative Audit, No.5, Rajaji Salai, Chennai-600 005.

2. The Joint Director of Cooperative Audit, Mylapore, Chennai-600 004.

3. The Assistant Director of Cooperative Audit, Officer's Line,Vellore, Vellore District. ..Respondents

PRAYER:The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of Certiorarified Mandamus calling for the records of the first respondent in his proceedings in Na.Ka.No.9504/2016 Tha.Sa.1(2) dated 17.02.2017 and quash the same and consequently direct the third respondent to cause re-audit for the year 2013-2014 of the petitioner's society.

For Petitioner : Mr.V.Lakshmi Narayanan
For Respondents : Mrs.T.Girija, Government Advocate

ORDER:

According to the petitioner, the petitioner has been the elected President of the Vellore District Police Cooperative Society from the year 2013. The audit of the society for the year 2013-2014 was carried out and its report showed that the society sustained a loss of Rs.28 lakhs for the above period.

The management by itself perused the report and found from the records that the auditor had manipulated entries to show the said loss. Pursuant to that, the petitioner/ the President of the society requested the third respondent on 04.04.2016 for re-auditing. In the meantime, the Deputy Registrar of Cooperative Societies, Vellore ordered for an enquiry on such affairs under Section 81 based on the said audit report. For this, the petitioner filed a writ petition in W.P.No.17866 of 2016 before this Court for not proceeding with the enquiry, in which this court granted an interim order. As per the order, the third respondent after considering the petitioner's representation, replied on 01.06.2016 stating that there is no necessity for re-auditing the society as requested by the society. After the receipt of the said communication, the petitioner replied to the third respondent on 14.06.2016 narrating the various reasons which are not at all considered by the third respondent while disposing the petitioner's representation dated 04.04.2016 and requested to consider all factors for coming to a logical conclusion in the interest of the society. As there was no communication in this regard, the petitioner made a representation to the second respondent on 28.06.2016 which was acknowledged on 04.07.2016. When the petitioner was waiting for reply from the second and third respondents, on 17.02.2017 the first respondent, based on the communication from the second respondent, passed an impugned order rejecting the requests of the petitioner without assigning any reasons, the nature of which is not sustainable by law. Hence, the petitioner has filed the present writ petition before this Court.

2. The learned counsel for the petitioner would submit that Sub-section (8) of Section 80 of the Tamil Nadu Cooperative Societies Act, 1983 has clearly stated that reasons for rejection should be descriptively made in such order, which reads as follows.

> "If it appears to the Registrar, on an application by a registered society to otherwise, that it is necessary or expedient to re-audit any account of that society, the Registrar may by order provide for such re-audit and the provisions of this Act applicable to audit of accounts of that society shall apply to such re-audit."

3. It is clear from the above said provision that if a petitioner makes an application, the same shall be considered under the provisions of the act, for passing an order. Further, if it is rejected, the reasons should be descriptive. But, in the present impugned order, the first respondent has simply rejected the application without showing any descriptive reasons. Therefore, prima facie case is made out in favour of the petitioner. Hence, the impugned order passed by the second

respondent is liable to be quashed.

4. In view of the above provisions, the impugned order dated 17.02.2017 passed by the first respondent is quashed and the third respondent is directed to consider the petitioner's representation dated 04.04.2016 and subsequent reply dated 14.06.2016 and pass an order afresh on merits and in accordance with law as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this Order.

5. It is needless to say that the petitioner shall make a fresh representation along with this order copy. Accordingly, the writ petition is allowed with above directions. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Secretary / Director of
Cooperative Audit, (Full Addl.Charge),
Directorate of Cooperative Audit,
No.5, Rajaji Salai,
Chennai-600 005.

2. The Joint Director of Cooperative Audit,
Mylapore,
Chennai-600 004.

3. The Assistant Director of
Cooperative Audit,
Officer's Line,
Vellore,
Vellore District.

+1cc to Mr.V.Ilanchezhian, Advocate, S.R.No.48593
+1cc to the Government Pleader, S.R.No.48803

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GN(30/08/2017)