

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.1081 of 2017 &
W.M.P.No.1050 & 1051 of 2017

A.Mathivanan,
S/o.Late K.Arjunan

..Petitioner

-vs-

- 1.The Joint Registrar of Co-operative Societies,
Krishnagiri Region, Krishnagiri,
Krishnagiri.
- 2.The Deputy Registrar of Co-operative Societies,
Krishnagiri Circle,
Krishnagiri, Krishnagiri District.
- 3.The Co-operative Sub Registrar/Field Officer/
Enquiry Officer, Kaveripattinam Block,
S.615, Gundalapatti Primary Agricultural Co-operative
Credit Society,
O/o. Deputy Registrar of Co-operative Societies,
Krishnagiri Circle, Krishnagiri,
Krishnagiri District.

..Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the entire records relating to the impugned notice issued by the 1st respondent in his proceedings in Na.Ka.No.1008//2016/Sa.Pa dated 09.12.2016 and quash the same insofar as relates to the petitioner is concerned.

For Petitioner
For Respondents

: Mr.C.Prakasam
: Mr.L.P.Shanmugha Sundaram
Special Government Pleader

ORDER

The petitioner has come forward with this petition challenging the impugned show cause notice dated 09.12.2016 issued by the Joint Registrar of Co-operative Societies, Krishnagiri Region, Krishnagiri calling upon the petitioner to show cause within 15 days as to why the elected Board of the third respondent Society should not be superseded under Section

88 of the Tamil Nadu Co-operative Societies Act (hereinafter referred to as 'the Act').

2.Learned counsel for the petitioner would submit that when the present impugned show cause notice was issued taking a stand that the funds of the third respondent Society has been misappropriated, on the basis of the report submitted under Section 81 of the Act, the petitioner was not furnished with the said report. Secondly, no enquiry was conducted till date, so as to enable the petitioner to make out his case. Thirdly, the present show cause notice issued to show cause as to why the Board should not be superseded due to the revenue loss is untenable for the reason that immediately after coming to know that some of the workers of the third respondent/Co-operative Society had involved in embezzlement of the society fund, the petitioner has immediately taken action and by order dated 19.02.2016, he has placed Mr.C.Sivalingam, Secretary to the third respondent under suspension and till date, the suspension order has not been revoked. In addition to that, the amount said to have been misappropriated by the employees were also recovered. In support of his submission, he has also produced a communication dated 01.09.2016. A perusal of the same shows that the entire amount said to have been embezzled are repaid to the third respondent Society. Therefore, the issuance of the impugned show cause notice, without any reason, is liable to be interfered with.

3.Learned Special Government Pleader appearing for the respondents urging the Court to dismiss the writ petition submitted that if the petitioner was not furnished with a copy of the report of the enquiry report filed under Section 81 of the Act, a copy of the same would be furnished, but till date, his request has not been received. Consequently, the impugned notice is only issued calling upon the petitioner to show cause notice as to why the action should not be taken under Section 88 of the Act for supersession of Elected Board within 15 days. If the petitioner has got any valid explanation as placed before this Court, he can make out a detailed explanation as called for in the impugned proceedings to the first respondent, who will consider the same, on merits and in accordance with law, more particularly with reference to the order passed by this Court in W.P.13836, 13837, 13843, 13844 and 16880 to 16883 of 1998 dated 27.07.1999 in ARIGNAR ANNA WEAVERS CO-OPERATIVE SOCIETY LTD., VS. STATE OF TAMIL NADU AND OTHERS reported in AIR 1999 MADRAS 254.

4.He would also further submit that a detailed enquiry has been conducted before issuing show cause notice and therefore, on receipt of explanation only, a final decision will be taken. Therefore, at this stage, the petitioner cannot come to this

Court challenging the impugned show cause notice giving him 15 days time to submit his explanation.

5.I fully agree with the submissions made by the learned Special Government Pleader appearing for the respondents.

6.Mere perusal of the impugned proceedings clearly shows that the petitioner has been given two weeks time to submit his explanation if any as to why the first respondent should not take steps in reference to supersede the elected Board since huge amount belonging to the third respondent Society has been embezzled. Although the explanation has been given to this Court stating that the petitioner, immediately on coming to know about the alleged misappropriation, has taken action by placing Mr.C.Sivalingam, Secretary of the third respondent Society under suspension by order dated 19.02.2016 and subsequently, he has also taken steps to recover the amount and the same is also said to have been paid by the employees to the third respondent Society, the petitioner, instead of asking for furnishing of the enquiry report to this Court, can very well put forth his explanation before the first respondent within the time limit given. Therefore, the impugned proceedings being a show cause notice, this Court is not inclined to interfere with the same.

7.Hence, the petitioner is directed to give explanation as called for by the first respondent within a period of two weeks from the date of receipt of a copy of this order and copy of the report under Section 81. In the mean while, the first respondent is directed to furnish a copy of the report under Section 81 of the Act and thereafter the first respondent shall consider the case of the petitioner in accordance with law as expeditiously as possible in the light of the order passed in W.P.13836, 13837, 13843, 13844 and 16880 to 16883 of 1998 dated 27.07.1999. as stated supra.

8.In the result, the writ petition is dismissed with the above terms. No costs. Consequently, connected miscellaneous petitions are dismissed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Joint Registrar of Co-operative Societies,
Krishnagiri Region, Krishnagiri,
Krishnagiri.

+1cc to Government Pleader Sr. 3147
+1cc to M/S. L.P. Shanmugasundaram Sr. 2893
+1cc to C. Prakasam, Advocate Sr. 2867

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KJ (CO)
VR(23/03/2017)



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