

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.10417 of 2015

S.Mathuram
Vice President,
Tamilnadu Secretariat Employees
Co-operative Thrift and
Credit Society Ltd.

... Petitioner

Vs.

1. The Registrar of Co-operative Societies,
No.170, N.V.N. Maligai,
Kilpauk, Chennai-10.
2. The Deputy Registrar of
Co-operative Societies(Credit),
Chennai region,
Kuralagam, Chennai-108.

.... Respondents

PRAYER: The Writ Petition is filed under Article 226 of Constitution Of India, to issue a Writ of Certiorarified Mandamus calling for the records of the order passed by the 1st respondent in RC.No.98672/2014/B1-1 dated 23.03.2015, quash the same consequently direct the 1st respondent to order a fresh enquiry into the affairs of the Tamil Nadu Secretariat Employees Co-operative Thrift and Credit Society Ltd, Secretariat, Chennai-9 on the petitioner petition dated 28.10.2014 after giving opportunity to the petitioner and pass further orders.

For Petitioner : Mr.M.S.Palaniswamy

For Respondents : Ms.T.Girija,
Government Advocate for R1 & R2

O R D E R

The petitioner has filed the present writ petition seeking to quash the order passed by the 1st respondent in Rc.No.98672/2014/B1-1 dated 23.03.2015, consequently direct the 1st respondent to order fresh enquiry into the affairs of the Tamil Nadu Secretariat Employees Co-operative Thrift and Credit

Society Ltd, Secretariat, Chennai-9 based on the petition of the petitioner dated 28.10.2014, after giving an opportunity to the petitioner.

2. Learned counsel for the petitioner submitted that the petitioner is the Vice President of the Tamil Nadu Secretariat Employees Co-operative Thrift and Credit Society Ltd. Based on his complaint dated 03.04.2014 against the President and the other Directors of the Society, for their wrongful gains, enquiry was conducted. Though it is stated that the enquiry has been completed, report was not served to the petitioner. Hence, the petitioner filed another representation dated 28.10.2014 before the 1st respondent, listing out the irregularities committed by the President and the governing body of the Society. Alleging that the Deputy Registrar is not initiating any action on the complaints made by the petitioner, he filed Writ Petition No.34297 of 2014 before this Court. By order dated 22.12.2014, this Court directed the respondent to consider the petitioner's representation dated 28.10.2014 and pass orders on merits and in accordance with law, after issuing notice to the petitioner, after conducting enquiry, within a period of six weeks, from the date of receipt of a copy of the order therein. Pursuant to the said order of this Court, the respondent has passed the impugned order, considering the nature of the complaint and the report of the enquiry officer Mr. Rajanbenshinger, the Co-operative Sub Registrar, who conducted the enquiry, on the complaint of the petitioner dated 03.04.2014. Challenging the order of the 1st respondent dated 23.03.2015, the petitioner has filed the present writ petition.

3. According to the petitioner, the respondent has not complied with the order of this Court, by conducting the enquiry appointing an Enquiry Officer, instead, have passed the impugned order based on the report already given by the Registrar of Co-operative Societies, which is contrary to the provisions of law.

4. At this stage, learned Government Advocate would submit that under the provisions of the Act, the Deputy Registrar of Co-operative Societies is the competent authority to conduct the enquiry. It is further submitted that the allegations are made against the then Deputy Registrar and now the said Deputy Registrar is not holding the post and therefore the writ petition is liable to be dismissed.

5. Heard the rival submissions made by the parties concerned and perused the material available on record.

6. It is submitted by the learned counsel for the petitioner that the members and Directors of the Society, are

the officials of the Secretariat. Therefore, the petitioner has approached the respondents to conduct enquiry and pass orders on his complaint. But, the 2nd respondent has appointed one Sub Registrar of the Co-operative Societies, as an enquiry officer, who cannot enquire members holding the office of the Secretariat. Hence, the petitioner requested that the Registrar has to appoint an enquiry officer, not below the rank of Joint Registrar or Additional Registrar of Co-operative Societies.

7. In view of the aforesaid submission and considering the nature of the allegations made by the petitioner, in the interest of justice, this Court is inclined to set aside the impugned order passed by the 1st respondent in RC.No.98672/2014/B1-1 dated 23.03.2015 and the case is remanded back to the 1st respondent to be considered afresh, by an enquiry officer, appointed not below the rank of an Additional Registrar or Joint Registrar of Co-operative Societies, and pass orders as expeditiously as possible on merits and in accordance with law, preferably within a period of twelve weeks from the date of receipt of a copy of this order.

8. With the above direction, the writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

avr

To

1. The Registrar of Co-operative Societies,
No.170, N.V.N. Maligai,
Kilpauk, Chennai-10.

2. The Deputy Registrar of
Co-operative Societies(Credit),
Chennai region,
Kuralagam, Chennai-108.

+1cc to Mr.M.S.Palaniswamy, Advocate, S.R.No.46409
+1cc to the Government Pleader, S.R.No.46565

W.P.No.10417 of 2015

GP(CO)
CA(18/09/2017)