

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 3888 of 2017

and W.M.P. No. 3956 of 2017

T. Balakrishnan ... Petitioner
Vs.

1. The Co-operative Sub Registrar
Enquiry Officer
E-2590 Serakuppam Primary
Agricultural Cooperative Credit
Society, Serakuppam
Vadalur post, Kurinjipadi Taluk
Cuddalore District.
2. The Joint Registrar of
Co-operative Societies
Cuddalore Division
Cuddalore -1,
Cuddalore Taluk & District.
3. The Deputy Registrar of
Co-operative Societies
South Kavarai Street
Manjakuppam
Cuddalore - 607 001
Cuddalore Taluk & District.
4. The Secretary
E-2590 Serakuppam Primary
Agricultural Co-operative Credit
Society, Serakuppam,
Vadalur Post
Kurinjipadi Taluk
Cuddalore District.

5. Saraswathi
President-in-charge
E-2590 Serakuppam Primary
Agricultural Co-operative Credit
Society, Serakuppam,
Vadalur Post
Kurinjipadi Taluk
Cuddalore District.

... Respondents

Prayer : This Writ petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records and quash the resolution dated 18.11.2016 allegedly passed by the Board of Directors of E2590 Serakuppam Primary Agricultural Credit Society and consequently pass an order reinstating the petitioner as the President of E2590 Serakuppam Primary Agricultural Credit Society and pass further orders.

For Petitioner : Mr. R. Gururaj

For Respondents : Mr. L.P. Shanmugasundaram,
Spl. Government Pleader for R1 to R4
Mrs. T.P. Savitha for R5

O R D E R

This Writ Petition has been filed challenging the Resolution dated 18.11.2016 passed by the Board of Directors of the Society and consequently pass an order reinstating the petitioner as the President.

2. The learned counsel for the petitioner would submit that the petitioner is the elected President of the Society. Subsequent to the enquiry conducted under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, ten charges were framed against the petitioner and the 4th respondent. But no charges were specifically against him, except charges 1 and 2. According to the petitioner, the 1st respondent has neither given any finding against the petitioner nor has recommended to take any action against the petitioner. However, on 15.07.2015, the 2nd respondent has prepared a show cause notice stating that the petitioner is responsible for the fraud to the tune of Rs.15,21,815/- and recommended for removal of the petitioner from the post of President. The 2nd respondent passed an order dated 21.11.2015 holding the petitioner jointly responsible with the Secretary of the Society. The said order was served to the petitioner on 07.03.2016. Against the said order, the

petitioner filed C.M.A. No.39 of 2016 before the Principal District Court, Cuddalore. Pending appeal, the petitioner was served with a communication dated 25.11.2016 of the 5th respondent, along with the alleged resolution dated 18.11.2016, stating that the Board of Directors have passed a resolution removing the petitioner from the post of President.

3. According to the petitioner, the resolution passed by the 1st respondent is without jurisdiction and only the 3rd respondent has powers, under Section 36(1) of the Tamil Nadu Co-operative Societies Act, 1983. The Resolution has been passed by the respondent, without serving any notice to the petitioner under Section 36(2) of the Act and so the same is illegal and without jurisdiction. Therefore, the petitioner has filed this writ petition to set aside the resolution and to reinstate him as President.

4. The learned Special Government Pleader appearing for the respondents, would submit that a notice was issued on 10.11.2016 directing the Board of Directors to be present on 18.11.2016 at 11 a.m, to pass a resolution on the basis of the request made by the Board of Directors, under Rule 62(1) of the Tamil Nadu Co-operative Societies Rules, 1988. Therefore, the entire case as placed in the writ petition, no notice under Section 36(2) of the Act was given, is irrelevant to the present facts of this case. The petitioner has not disclosed the correct facts before this Court and hence this writ petition is liable to be dismissed.

5. It was further submitted that subsequently the petitioner has been removed from the post of President of the Society. Therefore, under the provisions of the Act, the petitioner has to raise all the grounds urged in the writ petition, before the revisional authorities. Hence, the writ petition is liable to be dismissed on the ground maintainability.

6. Heard the rival submissions of the learned counsel for both the parties and perused the material available on record.

7. It is found that the petitioner has put forth his case under Section 36(2) of the Tamil Nadu Co-operative Societies Act, 1983. At the time of hearing, the learned Special Government Pleader have placed before this Court, a copy of the notice issued under Rule 62(1) of the Tamil Nadu Co-operative Societies Rules, 1988, directing the Board of Directors to be present in the Meeting scheduled to be held on

18.11.2016 at 11.00 a.m. The said copy of the proceedings have been served on the petitioner, since the same has been signed by the petitioner. Therefore, as rightly contended by the learned Special Government Pleader, without disclosing these facts, the petitioner has filed this writ petition and hence the same is liable to be dismissed.

8. However, if the petitioner is having any grievance with regard to the order of removal from the post of President of the Society, it is open to the petitioner to file an appeal under Section 90 of the Act. Further, the challenge in this writ petition is only the Resolution removing the petitioner from the post of President of the Society, which cannot be challenged in a writ petition filed under Article 226 of the Constitution of India.

9. Therefore, the writ petition is dismissed as not maintainable. However, if the petitioner has any grievance, he is at liberty to approach the revisional authorities, under Section 90 of the Act. Consequently, the connected Miscellaneous Petition is closed. No costs.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

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4. The Secretary

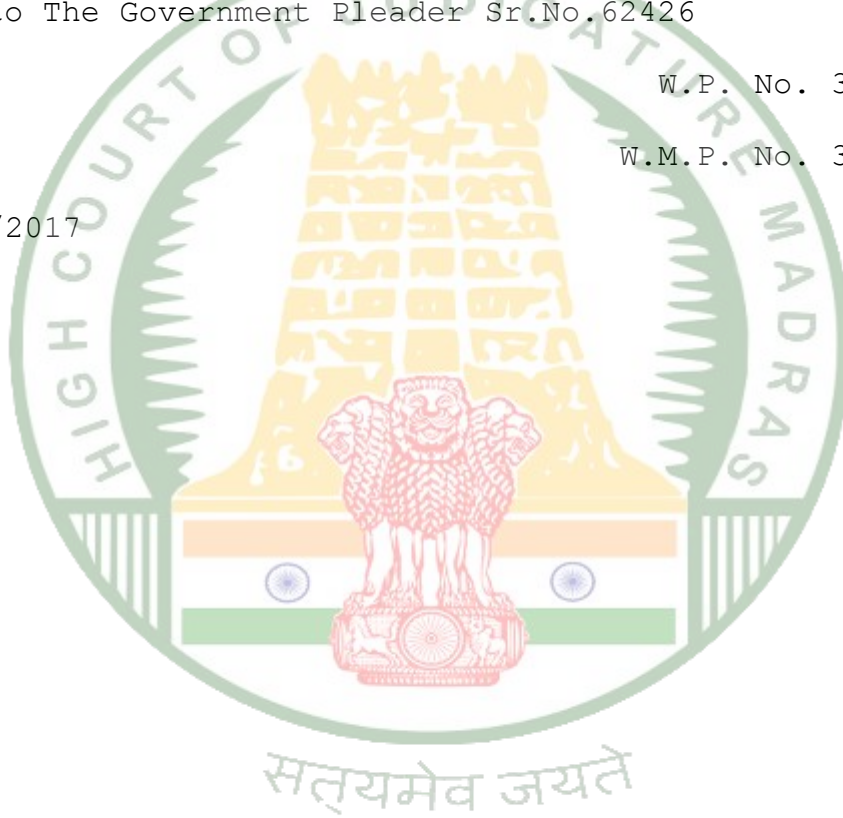
E-2590 Serakuppam Primary
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Society, Serakuppam,
Vadalur Post, Kurinjipadi Taluk
Cuddalore District.

- 1 cc to T.P.Savitha, Advocate Sr.No.61549
- + 1 cc to Mr.L.P.Shanmugasundaram, Advocate Sr.No. 61789
- + 2 cc to Mr.R.Gururaj, Advocate Sr.No.61558
- + 1 cc to The Government Pleader Sr.No.62426

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CO(SV)
RRI 21/11/2017



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