

HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.15332 of 2017 and
WMP No.16623 of 2017

C.Rajendran

..petitioner

Vs.

1. The Zonal Joint Registrar of
Co-Operative Societies,
having office at
Saravanapava Co-operative
Supermarket Complex,
Beach Road, Cuddalore,
Cuddalore District-607 001.
2. The Deputy Registrar of
Co-operative Societies,
Chidambaram,
Cuddalore District.
3. The President,
E-1133, Komaratchi Primary Agricultural
Co-operative Credit Society Limited,
Komaratchi and Post,
Kattumannarkoil Taluk,
Cuddalore District - 608 302.

..Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 2nd respondent relating to the impugned proceedings in Na.Ka. No.197/2016/Sa.Pa dated 26.05.2017 and quash the same.

For Petitioner : Mr.K.Raja

For Respondents: Mrs.T.Girija,
Government Advocate

ORDER

The Petitioner has filed this Writ Petition to issue a Writ of Certiorari calling for the records of the 2nd

respondent relating to the impugned proceedings in Na.Ka. No.197/2016/Sa.Pa dated 26.05.2017 and quash the same.

2. The learned counsel for the petitioner would submit that the petitioner was working as Secretary in-charge in the third respondent Society until he was retired from service on 30.01.2016. The petitioner was not given retirement benefits stating that a disciplinary proceedings was pending pursuant to the charge memo dated 22.01.2016, alleging that the petitioner did not initiate proceedings to recover loans which would fetch Rs.10,68,235/- from the members of the society, issued by the third respondent on the date of retirement i.e. 30.01.2016. Pursuant to the same, the petitioner filed revision under Section 153 of the Tamil Nadu Cooperative Societies Act 1988 before the first respondent. The revision was returned as not maintainable. Challenging the same, the petitioner filed WP.No.9599 of 2017 which is pending before this Court. Further, after the receipt of the notice in the above said Writ petition, the second respondent has issued a surcharge notice under Section 87 of the above Act to show cause as to why a proceedings should not be initiated so as to recover the said amount together with interest at the rate of 18% per annum. The said impugned proceedings has been issued based on an inspection conducted against the petitioner under Section 82 of the Tamil Nadu Cooperative Societies Act, the report of which has not been issued to the petitioner. Without receiving the said inspection report, the petitioner is not able to submit his explanation. The impugned proceedings dated 26.05.2017 should have been given along with the inspection report under Section 82 of the said Act. The learned counsel for the petitioner would also submit that as per allocation of duties and responsibilities, one Mr.A.William, Clerk alone was responsible. Besides, such loan was also sanctioned by one previous Secretary, Mr.Swaminathan against him no proceedings was initiated. Further, most of the loans were sanctioned prior to seven years, as such surcharge proceedings is time barred as per first proviso to Section 87 of the Tamil Nadu Cooperative Societies Act, 1988. Hence the petitioner has filed this Writ petition challenging the impugned notice dated 26.05.2017.

3. The learned Government Advocate would submit that if the petitioner approaches the authorities concerned to obtain the inspection report, the same will be issued to the petitioner, if it is not furnished so far.

4. In view of the submissions made by the counsels of both sides and on perusal of the materials available on record, this court is inclined to direct the petitioner to file an appropriate application before the second respondent within one week from the date of receipt of a

copy of this Order. Thereafter, the second respondent is directed to consider the said application and furnish the inspection report to the petitioner immediately, if not issued so far. Further, the petitioner is given two weeks' time from the date of receipt of the said Inspection Report to submit his explanation for the consideration of the second respondent.

5. The writ petition is disposed of with above directions. Consequently, connected miscellaneous petition is closed. No costs.

-s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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+1 CC to Mr.K. Raja, Advocate sr 43237

+1 CC to Govt. Pleader sr 43438

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