

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13-11-2017

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.32 of 2015
and
W.M.P.Nos.1 & 2 of 2015

N.Manoharan

... Petitioner

Vs

- 1.The Deputy Registrar,
Co-operative Societies,
Ranipet Division,
Ranipet Taluk,
Vellore District.
- 2.The Sub-Registrar/Special Officer/Field Officer,
Co-operative Department,
Arcot Taluk, Vellore District.
- 3.Nagavedu Primary Agricultural
Co-operative Credit Society,
Represented by its Secretary,
Nagavedu Taluk and Post,
Arakkonam Taluk,
Vellore District.

4.A.Sekar

5.M.Elumalai

6.M.Amudha

7.M.Rajeswari

8.A.Ramesh

9.P.Jayaraman

10.V.Kanniappan

11.V.H.Hemachandran.

(R-4 to R-11 Impleaded as per order dated 07.08.2015
in MP.3/2015 in WP.32/2015)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records comprised in Na.Ka.No.3652/2014/SP, dated 01.10.2014 on the file of the first respondent and the consequential notice of the second respondent dated 18.12.2014 and the consequential resolution passed by the third respondent society in Resolution No.I, dated 23.12.2014, quash the same.

For Petitioner : R.Bharanidharan

For Respondents : Mr.L.P.Shanmugasundaram (for R1 to R3)
Special Government Pleader (Co-op)

Mr.C.Munusamy (for R4 to R11)

ORDER

The petitioner was elected as President of Nagavedu Primary Agricultural Co-operative Credit Society during May 2013. The society has got about 11 directors including the petitioner. The Vice president and a section of directors formed a separate group and they brought no confidence motion against the petitioner by preferring a complaint dated 19.9.2014 to the first respondent. The said complaint is said to have been given to the first respondent on 30.09.2014. The first respondent even without verifying as to whether 2/3rd of the directors out of 11 directors signed the complaint, which is the requirement of law under Rule 62(2) of the Tamil Nadu Co-operative Societies Rules, 1988 issued notice dated 01.10.2014, calling upon the petitioner to give explanation within a period of three days.

2. Though the show cause notice dated 01.10.2014 was actually sent on 07.10.2014 by RPAD, the same was received by the petitioner only on 11.10.2014. Thereafter, the petitioner gave a reply to the Deputy Registrar on 13.10.2014. Subsequently, after lapse of more than two months, the Sub Registrar issued notice on 18.12.2014, informing the petitioner about the holding of meeting on no confidence motion.

3. Thereafter on 23.12.2014, the petitioner made a representation to the Deputy Registrar. However, on 23.12.2014 itself, the impugned resolution was passed and communicated to the petitioner stating that no confidence motion was successfully moved against him. The said resolution dated 23.12.2014 is being challenged before this court.

4. Heard, Mr.R.Bharanidharan, learned counsel appearing for the petitioner, Mr.L.P.Shanmugasundaram, learned Special Government Pleader (Co-op) appearing for respondents R1 to R3 and Mr.C.Munusamy, learned counsel appearing for respondents R4 to R11.

5. The petitioner would contend that no confidence motion has been moved based on the complaint dated 19.09.2014, given by six directors of the third respondent Co-operative Society. It is stated by the 3rd respondent that a fresh complaint was received by him on 28.11.2014 signed by 8 directors, and based on which a show cause notice dated 01.12.2014 was issued to the petitioner and to reply to the show cause notice, 7 days time was granted. Since, no reply was

received from the petitioner, the Sub-Registrar was nominated to conduct the special meeting on 23.12.2014. On 23.12.2014, 11 directors were present, 9 voted in favour of the motion and therefore the resolution was passed.

6.However, it is contended by Mr.R.Bharanidharan, learned counsel for the petitioner that no such notice dated 01.12.2014, based on the fresh complaint signed by 8 directors on 28.11.2014 was received by the petitioner. In view of that, this Court directed the respondents to produce the file to prove that show notice dated 01.12.2014 was served upon the petitioner.

7.However, the respondents could not produce the original acknowledgment which is said to have been made by the petitioner for having received the show cause notice dated 01.12.2014. They produced the xerox copy of acknowledgment only, as if it was issued by the petitioner. When the petitioner is to be replaced by way of resolution as President of the Co-operative Society, the said original documents have to be put into safe custody of the third respondent Co-operative Society.

8.The original records were not produced, particularly, the receipt/acknowledgment of the notice dated 01.12.2014. In the absence of any service of show cause notice dated 01.12.2014 on the petitioner, the entire proceedings based on the show cause notice dated 01.12.2014 are vitiated as non est in law and therefore, the resolution is quashed and the petitioner is restored as President of the third respondent Co-operative Society.

9.Pursuant to the direction given by this Court, action has been taken against the concerned officials, who pleaded falsely before this Court that the show cause notice dated 01.12.2014 was served upon the petitioner. The action which is alleged to have been taken against the concerned officials is directed to be concluded within a reasonable time. Hence, the petitioner is, as stated above, restored as President of the third respondent Co-operative Society. Based on the orders passed by this Court, the first respondent has to pass orders on the petitioner's representation within a period of one week from the date of receipt of a copy of this Order.

10. With the above observations, this Writ Petition is allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

11. For reporting compliance, call the matter after two weeks.

13.11.2017

tkp/sai

To

1. The Deputy Registrar,
Co-operative Societies,
Ranipet Division,
Ranipet Taluk,
Vellore District.
2. The Sub-Registrar/Special Officer/Field Officer,
Co-operative Department,
Arcot Taluk, Vellore District.
3. The Secretary,
Nagavedu Primary Agricultural
Co-operative Credit Society,
Nagavedu Taluk and Post,
Arakkonam Taluk,
Vellore District.

N.KIRUBAKARAN,J

tkp/sai



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Dated: 13.11.2017