

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.09.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.32012 of 2015

and

M.P.No.1 of 2015

G.Mohanan

..Petitioner

Vs

1.The Deputy Registrar of Co-operative Societies
Tiruvallur Circle, Collectorate Tiruvallur
Tiruvallur District.

2.The Enquiry Officer/Co-operative
Sub Registrar (Under Section 81 Enquriy)
J.J.601, Meyyur Primary Agricultrual
Co-operative Credit Society
Meyyur Village & Post,
Uthukottai Taluk
Tiruvallur District.

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the second respondent to furnish the documents which are required by the petitioner to defend the petitioner's case by disposing the written representation made by the petitioner on 23.09.2015 within a stipulated time as this Hon'ble Court.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmuga Sundaram
Special Government Pleader

O R D E R

The relief sought for in this writ petition is for a direction to the second respondent to furnish the documents which are required by the petitioner to defend his case, by disposing of the written representation made by the writ petitioner on 23.09.2015.

2. The learned counsel appearing for the writ petitioner made a submission that the writ petitioner was appointed as Secretary in the J.J.601, Meyyur Primary Agricultural Co-operative, Credit Society, Meyyur Village & Post, Uthukottai Taluk, Tiruvallur District in the year 1980 and an account of

certain allegations, the writ petitioner was placed under suspension by the Special Officer of the Co-operative Society in proceedings dated 26.11.2012. The order of suspension states that there were certain irregularities committed in respect of recovery of loan dues and that he did not concentrate on the development of the society and further, there was in-sufficiency in implementing the schemes and executing the orders. The grievance of the writ petitioner is that during the period of suspension, no subsistence allowances was paid to him. After the filing of the writ petition, this Court passed an order on 30.06.2015, directing the Management of the Co-operative Society to pay subsistence allowance together with arrears. Thereafter, an enquiry was conducted with regard to the allegations and the irregularities occurred in the said society. In this regard, the second respondent issued summons to the petitioner to appear before him. The petitioner made a request to the second respondent to furnish the documents, which are all relevant for the purpose of defending his case. In this connection, the petitioner has also made a representation on 23.09.2015. Since there was no response from the second respondent, the petitioner has come forward with this present writ petition.

3. The learned counsel for the writ petitioner vehemently contended that unless the petitioner is provided with the documents which are relied on by the society, he cannot defend his case before the enquiry officer and prove his innocence. The learned counsel submitted that the Hon'ble Supreme Court has also, time and again, held that necessary documents have to be furnished to the delinquent to prove his innocence before the enquiry officer.

4. Per contra, the learned Special Government Pleader on behalf of the respondents submitted that there is absolutely no merits in this writ petition. It is an attempt made by the writ petitioner only to prolong the enquiry proceedings and receive subsistence allowance during the interregnum period. The learned Special Government Pleader further submitted that if necessary the documents that are relied on by the society would be furnished to the petitioner during the course of domestic enquiry.

5. Section 81 of the Tamil Nadu Co-operative Societies Act, empowers the Registrar to appoint an enquiry officer to conduct an enquiry and produce a report with regard to the affairs of the Co-operative Society. It is a statutory enquiry to be ordered by the Registrar, if any information was received with regard to the illegalities, in respect of the Management of the Co-operative Society. Thus, the enquiry officer was appointed under Section 81 of the Tamil Nadu Co-operative Societies Act, to conduct inspection, collect documents and conduct an enquiry in accordance with the procedure contemplated under the Act and under the Rules. At this stage of enquiry under Section 81, the

writ petitioner cannot seek documents from the enquiry officer or from the management. Conducting Section 81 enquiry is not the end of the matter. After submission of report by the enquiry officer under Section 81 of the Act, if necessary, further proceedings will be initiated by the competent authorities either to launch the prosecution by the crime wing of the police department or initiate surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, or initiate departmental/disciplinary proceedings under the by laws of the society. All the actions shall be taken simultaneously against an employee, if it is found that an employee has committed any mis-conduct, illegalities, irregularities, in violation of the Provision of the Co-operative Societies Act. Thus, the writ petition filed by the writ petitioner seeking relevant documents at this point of time cannot be considered by this Court. If at all any other document is required by the writ petitioner, the same could be obtained through Right to Information Act. The very purpose of conducting an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act is totally independent and not connected with the further action to be taken based on the enquiry report. In other words, an enquiry under Section 81 is preliminary in nature and the report filed under Section 81 alone will provide the cause for initiating all further proceedings by the competent authorities under the Act. This being the scope of the case under Section 81 enquiry, the claim of the writ petitioner for a direction to furnish the documents cannot be considered.

6. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

sd/-
Assistant Registrar

/True Copy/

सत्यमेव जयते
Sub Assistant Registrar

dna

To

1. The Deputy Registrar of Co-operative Societies
Tiruvallur Circle, Collectorate Tiruvallur
Tiruvallur District.

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2.The Enquiry Officer/Co-operative
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J.J.601, Meyyur Primary Agricultrual
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Meyyur Village & Post,
Uthukottai Taluk
Tiruvallur District.

+1 CC GOVT.PLEADER Advocate SR.No.69395
+1 CC Mr.L.P.Shanmugasundaram Advocate SR.No.69002
+1 CC Mr.C.Prakasam Advocate SR.No.68998

VG(II)
EGR 17/11/2017

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