

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No.18841 of 2017

and

W.M.P.No.20376 of 2017

P.Abhiraman

... Petitioner

Vs.

1. The Managing Director/Addl.Registrar,
Tamil Nadu Cooperative Union,
No.170, Periyar E.V.R.Salai,
Kilpauk, Chennai - 600 010.
2. The Registrar,
Office of the Registrar of Co-operative Societies,
No.170, Periyar E.V.R.Salai,
Kilpauk, Chennai - 600 010. ... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the 1st Respondent in Na.Ka.No.414/2017/C, dated 05.05.2017 and quash the same.

For Petitioner : Mr.S.Muthukrishnan

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader
(Cooperatives)
for R1 and R2

O R D E R

The charge memo issued by the 1st Respondent in proceeding dated 5th May, 2017 is under challenge in this writ petition.

2. The Managing Director of the Tamil Nadu Cooperative Union issued the charge memo under the special bylaws of the first respondent society based on certain allegations. The charge memo was issued against the writ petitioner and he was requested to submit his explanation for the charge memo within 15 days from the date of receipt of a copy of this order of the charge memo. The petitioner submitted his explanation/objections for the charge memo, denying the

allegations. The enquiry is yet to be conducted. At this juncture, the writ petitioner instead of participating in the enquiry and proving his innocence, moved this writ petition under Article 226 of the Constitution of India.

3. First of all, this Court is of the firm opinion that in order to challenge a charge memo, the writ petitioner has to establish that the charge memo was issued by an incompetent authority having no jurisdiction or if any malafide allegations are raised. In the event of raising allegation of malafides, the authority against whom the allegation is raised is to be impleaded as a party in his personal capacity. In the absence of any of these legal grounds against the charge memo, the writ petition need not be entertained. Any writ petition questioning the validity of the charge memo itself has to be entertained only on exceptional circumstances and not in a routine manner.

4. This apart, the Tamil Nadu Cooperative Union is a registered Cooperative Society under the provisions of the Tamil Nadu Cooperative Societies Act. Thus, the Cooperative Union is not a state within the meaning of the Article 12 of the Constitution of India. The legal principles in this regard was settled by the larger Bench of this Hon'ble Court, in the case of Marrappan Vs. Deputy Registrar of Cooperative Societies reported in (2006) 4 CTC 689. Thus, the writ petition cannot be entertained and the remedy for the writ petitioner lies before the Revisional Authority under the provisions of the Tamil Nadu Cooperative Societies Act itself. Such being the legal principles and the view taken by this Court, the present writ petition questioning the validity of the charge memo deserves no further consideration.

5. Accordingly, the writ petition stands dismissed. However, there is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

To

1. The Managing Director/Addl.Registrar,
Tamil Nadu Cooperative Union,
No.170, Periyar E.V.R.Salai,
Kilpauk, Chennai - 600 010.

2. The Registrar,
Office of the Registrar of Co-operative Societies,
No.170, Periyar E.V.R.Salai,
Kilpauk, Chennai - 600 010.

+ 1 cc to M/s.S.Muthukrishnan, Advocate,SR.53477

+ 1 cc to M/s.L.P.Shanmugasundaram, Advocate,SR.52609

W.P.No.18841 of 2017

MSM(CO)
NR 21/08/2017



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