

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2017

Coram

The Hon'ble Mr. Justice M. DHANDAPANI

W.P.No.30644 of 2004
and
W.P.M.P.No.37127 of 2004

C. Govindaraju .. Petitioner

Vs

1. The Joint Registrar of Co-Operative,
Societies, Dharmapuri.
2. The Deputy Registrar of Co-operative,
Societies, Dharmapuri.
3. Enquiry Officer/Co-Operative
Sub-Registrar, S.1043 Mettupatti,
Primary Agricultural Co-Operative,
Bank, Mittappalli Post, Uthangarai Taluk.
4. Inspector of Police CCIW,
Bairappa Colony, Near Labour Office,
Krishnagiri .. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the 2nd and 3rd respondents from proceeding with the enquiry as specified in the summon issued by the 3rd respondent dated 15.11.2003 before issuing the copy of the enquiry report with regard to the petitioner.

For Petitioner .. No Appearance

For Respondents .. L.P.Shanmugasundaram
(for R1, R2, R4)
(Spl. Government Pleader)
.. M.S. Palaniswamy for R3

O R D E R

The petitioner has filed this writ petition praying for to issue to issue a Writ of Mandamus forbearing the 2nd and 3rd respondents from proceeding with the enquiry as specified in the

summon issued by the 3rd respondent dated 15.11.2003 before issuing the copy of the enquiry report with regard to the petitioner.

2. The Petitioner while he was discharging duty as a Secretary in Mettupatti Primary agricultural Co-operative Bank, was issued with a show cause notice under Section 81 of the Tamilnadu Co-operative Societies Act, by the 3rd respondent calling upon him to attend the enquiry on 28.11.2003 at 12.00 a.m. After receipt of the summons, the petitioner has submitted a letter dated 27.11.2003 to the 3rd respondent requesting him to furnish the details of the enquiry proceedings, enabling him to proceed enquiry, so that he may pursue his remedy. Against the impugned summons dated 15.11.2003 passed by the 3rd respondent, the present writ petition is filed.

3. Admittedly, the notice under Section 81 of the Tamilnadu Co-operative Societies Act, 1983, issued for conducting adjudication. Mere issuing notice, no prejudice will cause to the petitioner. The cause of action arose only after outcome of the enquiry, the surcharge order can be passed, hence challenging the summon issued under Section 81 of the Tamilnadu Co-operative Societies Act is premature. In view of the judgment reported in W.P. No.20028 of 2001 (batch of writ petitions) in which this Hon'ble Court has held as follows:

"In W.P. No.20028 of 2001, the Ex-President seeks to challenge the enquiry ordered under section 81 of the Act by proceedings dated 08.10.2001. In W.P. No.28262 of 2003, the very same petitioner seeks to challenge the inspection ordered under section 82 of the Act in proceedings dated 29.07.2003. In W.P. No.21974 of 2003, the very same petitioner seeks to challenge the enquiry report dated 31.10.2002.

39. Further, it is to be noted that after the initiation of the earlier enquiries under section 81 of the Act in the year 1998 as well as in the year 2000, when another enquiry was ordered by proceeding dated 08.10.2001, the petitioners have successfully prevented the said enquiry to be proceeded with by preferring a Writ Petition in W.P. No.20028 of 2001. However, when the Registrar of Societies, Chennai ordered for informal enquiry through his subordinates by his order dated 15.04.2002, though there was an attempt to stall the said proceedings, fortunately, the same was not allowed by this Court when the Writ Petition in W.P. No.15789 of 2002 came to be dismissed on 20.09.2002. In fact, in the said order, the learned Judge made it clear that is only a fact

finding enquiry and that if based on the outcome of the said enquiry, if the Registrar of Co-operative Societies were to initiate any further enquiries under sections 81 to 83 of the Act against the petitioners, there would be sufficient notice to the concerned parties and therefore, no prejudice would be caused to the petitioners in the event of any such enquiry being ordered. After all under sections 81 or 83, when an enquiry, inspection or investigation, which would be held in the presence of the concerned individuals, it would only bring forth the true state of affairs in relation to maintenance of accounts, handling of funds or other properties of the society or any malaadministration in the affairs of the society. Therefore, the contention that even the initiation of such an enquiry, inspection or investigation itself should not be allowed to take place at the threshold would be totally uncalled for"

5. Applying the ratio laid down by this Court as stated supra, the writ petition is dismissed. No Cost. Subsequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

lbm

To:

1. The Joint Registrar of Co-Operative, Societies, Dharmapuri.
2. Inspector of Police CCIW,
Bairappa Colony, Near Labour Office,
Krishnagiri

+1cc to the Government Pleader, S.R.No.58525

W.P.No. 30644 of 2004

GN(07/09/2017)