

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.08.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.28160 of 2013

and

M.P.No.1 of 2013

S.V.Venkatesan .. Petitioner

-Vs-

1.Deputy Registrar of Co-operative
Societies, Ranipet.

2.Vellore District Central Co-operative
Bank Limited rep. by its President,
No.1, Officers Lane, Vellore. .. Respondents

Petition filed under Article 226 of The Constitution of India, praying for the issuance of a Writ of Certiorari to call for the concerned records from the first respondent, quash the order dated 21.02.2013 bearing Na.Ka.No.8119/2006 Sa.ba issued by the first respondent and the surcharge notice issued by the first respondent dated 03.09.2013 bearing Na.Ka.No.8119/2006 Sa.ba/Tha.thee18/2006-2007 insofar as the petitioner is concerned.

For Petitioner .. Mr.Balan Haridas

For Respondents .. Ms.T.T.Girija,
Govt. Advocate for R1
Mr.R.Gopinath for R2

WEB COPY
ORDER

Challenging the order and the show cause notice for surcharge proceedings issued by the first respondent dated 21.02.2013 and 03.09.2013 respectively, the petitioner has filed the present writ petition.

2.The case of the petitioner is that he was working as Field Manager in the second respondent/Co-operative Bank. While so, the first respondent initiated surcharge proceedings against the petitioner for the irregularities alleged to have been committed by him in Chakramallur Primary Agricultural Co-operative Bank. On the explanation submitted by the petitioner, the surcharge proceedings were dropped insofar as the petitioner is concerned, by the first respondent by common order dated 06.09.2010. However, one Ramadoss, who was the co-employee of the petitioner was found guilty by the first respondent and he filed an appeal before the Co-operative Tribunal. The Tribunal, by order dated 09.03.2012, set aside the surcharge order dated 06.09.2010 and remanded the matter back to the first respondent for fresh disposal.

3.The grievance of the petitioner is that though the surcharge proceedings as against the petitioner was dropped, the first respondent, without application of mind, issued a letter dated 15.05.2012 as if the said surcharge proceedings is re-opened in respect of the petitioner also. Without considering the reply of the petitioner dated 16.06.2012, the first respondent issued the show cause notice dated 08.10.2012. Challenging the said show cause notice, the petitioner has filed a writ petition in W.P.No.32813 of 2012 and this Court, by order dated 10.12.2012, directed the first respondent to consider the explanation of the petitioner and pass orders. But the first respondent, without considering the explanation, issued another show cause notice dated 03.09.2013 for the surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act. Challenging the order dated 21.02.2013 and the surcharge notice dated 03.09.2013, the present writ petition has been filed.

4.Heard the learned counsels appearing for the parties and perused the materials available on record.

5.The second respondent has filed a counter affidavit stating that for the commissions and omissions caused by the petitioner in two different spells during his tenure in the Chakramallur Primary Agricultural Co-operative Bank, surcharge proceedings were initiated not only against him but also twenty other officials.

6.It is seen from the records that the first respondent has passed a common order dated 06.09.2010 wherein the proceedings were dropped as against the petitioner. No appeal has been preferred by the second respondent Bank under the provisions of the Tamil Nadu Co-operative Societies Act. The other co-employee viz., Ramadoss has filed an appeal in CTA No.23 of 2010 and by order dated 09.03.2012, the Co-operative Tribunal allowed the appeal and remanded the matter back to the first respondent for fresh disposal after giving an opportunity to the appellant

therein as per the Act. Now, show cause notice for surcharge proceedings has been issued to the petitioner, without taking into consideration the fact that the proceedings as against the petitioner were dropped, by the first respondent, which is without jurisdiction and unsustainable in law. Moreover, in the writ petition filed by the petitioner in W.P.No.32813 of 2012, this Court, by order dated 10.12.2012 directed the first respondent to consider the reply submitted by the petitioner. But the first respondent without considering the said reply passed the impugned order directing the petitioner to submit his explanation, which is beyond his jurisdiction and unsustainable in law. Therefore, the impugned order and the impugned show cause notice are liable to be quashed insofar as the petitioner is concerned.

7. In the above circumstances, the impugned order dated 21.02.2013 and the impugned show cause notice dated 03.09.2013 are set aside insofar as the petitioner is concerned, without prejudice to the right of the first respondent to proceed against the other employees, if permissible under law. Accordingly, the writ petition is allowed. No costs. consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

mmi

To

1.The Deputy Registrar of Co-operative Societies, Ranipet.

2.The President,
Vellore District Central Co-operative Bank Limited,
No.1, Officers Lane, Vellore.

+1 cc to M/s.Balan Haridas Advocate sr 59234

+1 cc to the Government Pleader sr 59481

W.P.No.28160 of 2013

cp(co)

aa15/09/2017