

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2017

CORAM:

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.33648 of 2016
and
W.M.P.No.29018 of 2016

M.Nehru,
President,
The K.K.260 Thonganoor
Primary Agricultural
Co-operative Credit Society Ltd.
Chinthalapadi Post
Pappireddypatti taulk,
Dharmapuri Dist ... Petitioner

vs.

1.The Joint Registrar of
the Co-operative Societies,
Dharmapuri Region,
Dharmapuri District.

2.The Deputy Registrar of
Co-operative Societies,
Dharmapuri Circle,
Dharmapuri District.

3.C.Murugan

4.T.Murugan

5.C.Indumathi ... Respondents

PRAYER: This Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus, calling for records of the 1st respondent in his letter in Na.Ka. No. 1481/2015 sa.pa dated 18.04.2016 and quashing the same and directing the Respondents 1 and 2 herein to refer the matter to Commercial Crime Investigation Wing for taking Criminal action against the employees petitioner society Viz.,

Respondents 3 to 5 herein for criminal acts of misappropriation funds, cheating, wilful negligence and criminal breach of trust, as recommended by the Special Investigation Squad in the statutory enquiry report conducted under Section 81 of the Tamil Nadu Co-operative Societies Act 1983 and Rules and pass such further orders.

For petitioner : Mr.Thiagarajan

For respondents : M/s.T.Girija
Government Advocate for R1& R2
: Mr.R.Ezhilarasan for R3 & R4
: Mr.V.R.Anna Gandhi for R5

ORDER

The petitioner has filed this Writ Petition challenging the impugned order passed by the 1st respondent Joint Registrar on 18.04.2016.

2. The learned counsel for the petitioner submitted that the petitioner is the President of the Petitioner society. Subsequent to his assuming office, he suspended the Secretary C. Murugan/ 3rd respondent herein, for serious irregularities and initiated disciplinary proceedings, committed during the previous Management. The 2nd respondent directed the petitioner to reinstate the Secretary C. Murugan, stating that the suspension order has been passed without following due procedures. The petitioner requested the Deputy Registrar to hold an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 against the previous Management. Hence, an enquiry was conducted and a report dated 12.03.2015 was submitted to the 2nd respondent, wherein it was held that the said promotion is irregular. In the meanwhile, the 3rd respondent filed writ petitions before this Court challenging his suspension order. In view of the stay order obtained by him, the petitioner was directed to reinstate the 3rd respondent. However, the petitioner filed an application to vacate the stay and the same is pending. Subsequently, the petitioner requested the respondents 1 and 2 to initiate surcharge proceedings against the previous Management, by referring the matter to the Commercial Crime Investigation.

3. Since no action has been taken by the respondents, the petitioner filed W.P. No. 3617 of 2016 and this Court passed an order on 01.02.2016 directing the authorities to take action within a period of six weeks from the date of receipt of the order, thereof. Pursuant thereto, the 1st respondent passed an order on 18.04.2016 holding that no criminal action can be

initiated against the respondents 3 to 5 and that there is no misappropriation funds. According to the petitioner, there are specific charges found by the Special Investigation Squad, against the respondents 3 to 5, in the enquiry conducted under Section 81 of the Act, as criminal breach of trust and fraudulent act by way of misappropriating the funds of the society as well as the irregularities committed on willful negligence, by the respondents 3, 4 and 5. Finally, the enquiry officer has recommended to take action against the respondents 3 to 5. Without considering the same, the 1st respondent has passed the impugned order. Challenging the same, the petitioner has filed the present writ petition.

4. The learned Government Advocate appearing for the respondents 1 and 2, would submit that if the petitioner is aggrieved by the said order, he can file an appeal before the competent authority, under Section 152 of the Act. However, the petitioner has preferred the present writ petition, without exhausting the alternate remedy.

5. In view of the above submissions, the petitioner is directed to file an appeal before the Registrar of Co-operative Societies, under Section 152 of the Act, if so advised, within a period of four weeks from the date of receipt of a copy of this order.

7. The writ petition is disposed of, with the above observations. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

avr

To:

1.The Joint Registrar of
the Co-operative Societies,
Dharmapuri Region,
Dharmapuri District.

WEB COPY

2.The Deputy Registrar of
Co-operative Societies,
Dharmapuri Circle,
Dharmapuri District.

+1cc to Mr.V.R.Annagandhi, Advocate sr.66321

+1cc to Mr.R.Ezhilarasan,advocate sr.66539

+1cc to Mr.N.Thiagarajan,Advocate sr.66380

+1cc to Government Pleader sr.67581

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ss(19/9/2017)



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