IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.08.2017

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.3564 OF 2016 &
W.M.P.Nos.2930 & 2931 of 2016

T.Krishnamoorthi [PETITIONER]

Vs

1 The Deputy Registrar of
Co-operative Societies (Housing)
Salem

2 The Sub Registrar of Coop.
Societies (Housing)
Salem II/81 Enquiry Officer
Salem. [RESPONDENTS]

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records connected with the impugned notice issued by the 2nd respondent dated 18.1.2016 under section 81 of The Tamilnadu Cooperative Societies Act and quash the same.

For Petitioner :Mr.R.Nalliyappan
For Respondents : Mr.L.P.Shanmugasundaram-R1
Spl.Govt. Pleader
Mr.R.Bala Ramesh - R2

O R D E R

A Notice issued to the writ petitioner under section 81 of the Tamil Nadu Co-operative Societies Act, in proceedings dated 18.1.2016, is under challenge in this writ petition.

2.The petitioner is working as Secretary (Incharge) of Dr.Ambedkar Salem City Co-operative House Building Society. On account of certain serious allegations, the writ petitioner was placed under suspension by proceedings dated 21.06.2008 and thereafter the disciplinary proceedings continued by framing a charge memo against the writ petitioner. In this regard, the second respondent was appointed as an enquriy officer to conduct

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/

the enquiry and to submit his report with regard to the irregularities alleged to have been committed in the Co-Operative Society.

3.The Registrar has got powers to order for an enquiry under section 81 of the Act in respect of the Co-Operative Society. The Enquiry Officer so appointed can conduct an enquiry by summoning the officials/ employees and other persons representing the Co-Operative Society. In this regard, the writ petitioner being the Secretary (Incharge) was called upon to submit his explanation before the enquiry officer appointed under section 81 of the Co-Operative Societies Act.

4.Enquiry under section 81 of the Act is a Statutory Enquiry and therefore, it is the duty of the writ petitioner to appear before the enquiry officer for submitting his explanations/objections with regard to the affairs of the Co-Operative Society. Instead of doing so, the petitioner has filed this Writ Petition, challenging the very notice itself.

5.A Writ cannot be entertained against the Notice issued by the second respondent, directing the writ petitioner to participate in the enquiry proceedings. The Writ Petition challenging such notice can be entertained only on exceptional circumstances and not in a routine manner, i.e. in the event of raising the ground of jurisdiction, incompetency or mala fides or in violation of Statutory Rules, the Court can entertain the writ petition, but not otherwise. In the case of raising a ground of allegation with regard to mala fides, it is necessary that the said authority has to be impleaded as party respondent in the writ proceedings in his personal capacity. In the absence of any one of these grounds, no writ can be entertained challenging the Notice issued under section 81 of the Act. It is left open to the writ petitioner to appear before the enquiry officer and submit his explanations/objections into the affairs of the co-operative society.

6.This being the view of this Court, no further adjudication on merits and on the grounds raised in this writ petition, is maintainable. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

WEB COPY

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

https://hcservices.ecourts.gov.in/hcservices/

Rpa

To

1 The Deputy Registrar of
Co-operative Societies (Housing)
Salem

2 The Sub Registrar of Coop.
Societies (Housing)
Salem II/81 Enquiry Officer
Salem.

+1cc to Mr.R.Nalliappan, Advocate Sr. 60072
+1cc to the Government Pleader, Sr. 61056

W.P.No. 3564 OF 2016

NM(CO)
VR(14/09/2017)

WEB COPY

https://hcservices.ecourts.gov.in/hcservices/