

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2017

CORAM

THE HON'BLE Mr. JUSTICE M.DHANDAPANI

W.P.No.35943 of 2003

Periyar Mavatta Kootturavuoo
Nilavala Vangi Paniyalargal Sangam
Reg. No.128/PYR, Rep. by its
General Secretary S.Muthusamy
74-El Chennimalai Road,
Kavin Nagar, Perunthurai (PO),
Erode District.

... Petitioner

Vs.

1. The Deputy Registrar of Co-op.
Societies, Erode Circle,
Erode.

2. The Co-op. Sub-Registrar,
(Land Development Banks)
Erode, Erode District.

3. The Co-op. Extension Officer,
Vellakoil, Erode District.

4. The Co-op. Extension Officer,
Mulanur,
Erode District.

5. The Co-op. Sub-Registrar (Package)
Dharapuram,
Erode District.

6. The Co-op. Extension Officer,
Kundadam, Erode District.

... Respondents

Writ Petition is filed under Article 226 of The Constitution of India praying for the issuance of a writ of Certiorari, calling for the entire records of the impugned order passed by the 1st respondent in his proceedings No.Na.Ka. 5897/2003/J dated 15.9.2003 and quash the same.

For Petitioner : Mr.C.Prakasam
For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader

ORDER

The petitioner has filed a writ of Certiorari, challenging the impugned order passed by the 1st respondent in his proceedings No.Na.Ka. 5897/2003/J dated 15.9.2003 and quash the same.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. The petitioner has filed this petition challenging the order passed by the 1st respondent in his proceedings No.Na.Ka. 5897/2003/J dated 15.9.2003, wherein the 1st respondent issued a direction for conducting Section 82 enquiry. In the impugned order, the first respondent found some irregularities in payment of 12(3) settlement, for which huge loss was occurred to the Agricultural Co-operative Bank. Against which the present Writ Petition is filed.

4. The petitioner Sangam has filed this Writ Petition challenging the enquiry notice ordered under Section 82 of the Co-operative Societies Act and the said circular was issued to the Special Officer who intend designated as Investigating Officer. On perusal of the impugned circular reveals, it is only the Deputy Registrar ordered investigation for which the petitioner Sangam may not be the aggrieved person. The very same issue covered by the decision of this Court 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 8.10.2001. 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 29.7.2003. 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 proceedings dated 8.10.2001, 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 15.4.2002, 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 20.9.2002. In fact, in the said order, the learned Judge made it clear that it 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 is ordered, as a result of such an enquiry 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 maladministration 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.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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To

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+lcc to the Government Pleader, S.R.No. 51057

W.P.No.35943 of 2003

AR(J)
CS/17/08/17



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