



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

**W.P(MD) No.22047 of 2017 and
W.M.P. (MD) No.18348 of 2017**

S.Rajendran

... Petitioner

-vs-

THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETY,
O/O.JOINT REGISTRAR OF CO-OPERATIVE SOCIETY,
COLLECTORATE COMPLEX, RAMNAD REGION,
RAMANATHAPURAM.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the impugned Notice in Letter No.Na.Ka.5500/2015/Saba dated 08.11.2017 on the file of the respondent and quash the same as illegal.

For Petitioner : Mr.T.Lajapathi Roy

For Respondent : Mr.T.S.Mohamed Mohideen

O R D E R

This writ petition has been filed, seeking to quash the impugned Notice dated 08.11.2017, passed by the respondent in Letter No.Na.Ka.5500/2015/Saba, by which, the petitioner was asked to show cause as to why action should not be taken for the alleged misappropriation committed by the Secretary and Salesman of the Society.

2. The case of the petitioner is that he is the President of Q1237 Ariayanendal Primary Agriculture Co-operative Society and there was a complaint of misappropriation of Rs.34,28,306/- and also mishandling of pledged jewels by the Secretary and Salesman of the said Society. After enquiry under Section 81 of the Co-operative Society Act, both were suspended from the Society and thereafter, the present impugned notice came to be issued against the petitioner for his failure to take action against his subordinates. Aggrieved by the same, the petitioner is before this Court.



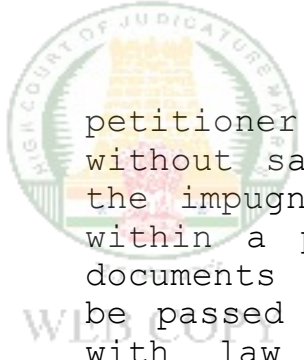
3. The learned counsel appearing for the petitioner would submit that though the respondent has referred to various documents / proceedings in the impugned notice, without furnishing such documents, the present impugned notice has been issued, directing the petitioner to offer his explanation on the alleged misappropriation of funds by his subordinates, which submission has not been stoutly refuted by the learned Standing Counsel appearing for the respondent.

4. Be that as it may, the present impugned order is nothing, but a show cause notice. It is well settled that in the event of violation of fundamental rights or infringement of any legal right either under the Statute or under any other laws and violation of principles of natural justice, an individual may approach this Court, seeking interference of this Court. In the absence of any such ingredients and legal right, it is not appropriate for the petitioner to seek remedy by merely challenging the show cause notice. The course adopted by the petitioner, namely, having not chosen to submit his explanation, in the considered view of this Court, does not have any legs to stand. The Hon'ble Supreme Court in the case of Union of India and another vs. Kunisetty Satyanarayana, reported in (2007) 1 SCT 452, has been pleased to lay down as under:

"It is well settled by a series of decision of this Court that ordinarily no writ lies against a charge sheet or show cause notice vide Executive Engineer, Bihar State Housing Board vs. Ramdish Kumar Singh and others JT 1995 (8) SC 331, Special Director and another vs. Mohd. Ghulam Ghouse and another in 2004 (1) SCT671 (SC), Ulagappa and others vs. Divisional Commissioner, Mysore and others (2001) 10 SCC 639, State of U.P. vs. Brahm Dutt Sharma and another in AIR 1987 SC 943 etc."

5. The Hon'ble Supreme Court in the very same judgment (cited supra) held that in some very rare and exceptional cases, the High Court can set aside the show cause notice, if it is found to be without jurisdiction, or for some other reason, if it is wholly illegal, otherwise the High Court should not interfere. In the absence of any such violation and infringement of rights, there is no scope for this Court to interfere with the show cause notice impugned in this writ petition.

6. Hence, while declining to interfere with the order impugned herein, this writ petition is disposed of, permitting the petitioner to make a representation to the respondent, listing out the documents, referred to in the impugned notice, so as to reply to the notice, within a period of two weeks from the date of receipt of a copy of this order and on such representation being received, the respondent shall supply those documents to the



petitioner within a period of two weeks thereafter. It goes without saying that thereafter, the petitioner shall respond to the impugned notice by filing necessary objection to the notice within a period of two weeks from the date of receipt of the documents and on the same being submitted, necessary orders shall be passed by the respondent thereon on merits and in accordance with law as expeditiously as possible, after affording an opportunity of hearing to the petitioner. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETY,
O/O.JOINT REGISTRAR OF CO-OPERATIVE SOCIETY,
COLLECTORATE COMPLEX, RAMNAD REGION,
RAMANATHAPURAM.

+ 1 cc TO Mr.T.Lajapathi Roy , Advocate in SR No. 91346
+ 1 cc TO The Special Government Pleader in SR No. 91736

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AE/SV MMS/SAR2/08.12.2017/3P/4C

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