



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.02.2017

CORAM:

THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.11709 of 2016

WEB COPY

THE PRESIDENT

M.M.348, KOUNDAMPATTI PRIMARY AGRICULTURE

COOPERATIVE CREDIT SOCIETY LIMITED,

KOUNDAMPATTI, TIRUCHIRAPPALLI DIST.

... Petitioner

-vs-

1. JOINT REGISTRAR OF COOPERATIVE SOCIETIES,
TRICHIRAPPALLI REGION,
TRICHIRAPPALLI.

2. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES,
TIRUCHIRAPPALLI CIRCLE,
TRICHY.

3. VENKIDUSAMY ... Respondents
(R3 impleaded vide order dated 01.08.2016)

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice issued by the 2nd respondent vide Na.Ka.1057/2016/Sa.Pa dated 22.06.2016 and quash the same and consequently forbearing the respondents from any way interfering with the petitioner's function as President of M.M.348, Koundampatti Primary Agriculture Cooperative Credit Society Limited, Koundampatti, Tiruchirappalli District.

For Petitioner	:	Mr.D.Shanmugaraja Sethpathi
For R1 & R2	:	Mr.S.Sathish Kumar Addl. Govt. Pleader
For R3	:	Mr.R.Aravindan

O R D E R

This writ petition has been filed, seeking to quash the order of the 2nd respondent dated 22.06.2016 passed in Na.Ka.1057/2016/Sa.Pa, by which the petitioner was asked to give explanation as to why action should not be taken on the basis of the representation made by the Board of Directors. The petitioner also sought to forbear the respondents from in anyway interfering with the petitioner's function as President of M.M.348, Koundampatti Primary Agriculture Cooperative Credit Society Limited, Koundampatti, Tiruchirappalli District.



2. The case of the petitioner is as follows:

i) The petitioner is the elected President of Co-operative Credit Society and there were certain irregularities by the Board of Directors in connivance with the employees of the Society. At the instance of the petitioner, the 2nd respondent has ordered to conduct enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act (hereinafter referred to as "the Act") and the 2nd respondent has directed the President to suspend the employees and action was also taken under Section 36 of the Act to disqualify all other members of the Board. Against such disqualification, the the Executive Committee Members / Board of Directors have filed W.P.(MD) Nos.20431 to 20434 of 2016. Enraged by the action taken by the petitioner and also the order of the Deputy Registrar to conduct the statutory enquiry, no confidence motion was moved against the petitioner by the eight members of the Board and they have made a resolution dated 31.03.2016 for the same, pursuant to which, notice dated 11.04.2016 was issued by the 2nd respondent under Rule 62 of the Tamil Nadu Co-operative Societies Rule. The 2nd respondent, subsequent to the notice, issued another communication dated 30.04.2016 not to proceed with the no confidence motion pursuant to declaration of election to the Tamil Nadu Legislative Assembly.

3. According to the petitioner / elected President, the members have no right to move resolution against the petitioner. The petitioner would further submit that he moved writ petitions in W.P.(MD) Nos.9901 and 9535 of 2016 and this Court considered the same in detail with regard to holding of the subject meeting and held that there is no legal sanctity in the decision taken by the Board to move no confidence motion against the petitioner, who is the President of the Society.

4. Learned counsel for the petitioner would vehemently contend that if such disqualified persons are allowed to move no confidence motion, then it is very difficult for the elected President and other members to function independently. In this case, five members of the Board are not eligible to participate and vote in the no confidence motion, who have borrowed Rs.10,42,670/- by fabricating false documents and misappropriated the amount. It is further submitted that the impugned notice was issued on the basis of the representation made by the Board of Directors against whom proceeding was initiated under Section 34 (6) of the Act for disqualification.

5. Mr.R.Aravindan, learned counsel for the 3rd respondent would vehemently contend that the 3rd respondent and other members have filed W.P.(MD) Nos.20431 to 20434 of 2016, challenging their disqualification by the 2nd respondent, which were allowed by this Court on 02.06.2016 and a copy of the same has also been produced before this Court. The petitioner, vide impugned notice dated 22.06.2016, has been asked to explain as to why action should not



be taken on the basis of the representation made by the Board of Directors. He would further contend that as majority of the Directors has made the request dated 20.06.2016 to convene a Special Meeting of Board of Directors, the petitioner is under legal obligation to offer his explanation even and to participate in the Special Meeting and without doing so, he has approached this Court with the relief stated supra.

7. At this juncture, it is represented by the learned counsel for the petitioner that since the meeting has not been conducted for the last three months, the Board is going to be superseded by the 1st respondent as per the provisions of the Act.

8. Taking note of the submissions made on either side, it is seen that the disqualification order passed against the 3rd respondent and others has already been interfered with by this Court vide order dated 02.12.2016 and therefore, it cannot be said that the 3rd respondent is not a competent person to send representation, requesting to convene special meeting and participate in the proceedings. Furthermore, in view of the subsequent development of setting aside the order of disqualification, the impugned notice issued by the 2nd respondent is perfectly valid in the eye of law and it does not warrant any interference by this Court.

9. Accordingly, this writ petition fails and the same is dismissed. It is needless to state that if the Board is superseded by the 1st respondent, the consequential order will follow and if any one is aggrieved by the order to be passed, it is open to them to challenge the same in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To:

1. JOINT REGISTRAR OF COOPERATIVE SOCIETIES,
TRICHIRAPPALLI REGION, TRICHIRAPPALLI.
2. THE DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES,
TIRUCHIRAPPALLI CIRCLE, TRICHY.

+1 cc to MR.D.Shanmugaraja Sethupathi, ADVOCATE, SR NO:11224

+1 cc to MR.R.Aravindan, ADVOCATE, SR NO: 11026

W.P. (MD) No.11709 of 2016
27.02.2017

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