

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2018
CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.206 of 2018
and
WMP.No.282 of 2018

A.P.Selvaraj
S/o.Palanyappa Goundar

.. Petitioner

Vs.

1.The Registrar of Co-operative Societies (Housing)
Vepery, Chennai-600 007.

2.The Deputy Registrar of Co-operative Societies (Housing)
Salem Region, Salem-16. ... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.7443/2017, Sa.Pa.2, dated 11.12.2017 and quash the same as contrary to law.

For Petitioner : Mr.R.Thamaraiselvan

For Respondents : Mrs.T.Girija
Government Advocate

O R D E R

The petitioner is aggrieved against the order of the first respondent dated 11.12.2017 issued under Section 36(1) of the Tamil Nadu Co-operative Societies Act, 1983, disqualifying the petitioner from the post of President of the Omalur Co-operative Housing Society Ltd.

2. Heard Mr.R.Thamaraiselvan, learned counsel for the petitioner and Mrs.T.Girija, learned Government Advocate for the respondents.

3. Though several grounds were raised touching upon the merits of the order passed by the first respondent, this Court, is inclined to set aside the impugned order, only on the ground that the first respondent placed his reliance, on an enquiry report filed under Section 81 of the Act, by the second

respondent dated 18.07.2017, without furnishing a copy of the same to the petitioner. The issue as to whether the said enquiry report has to be furnished to the delinquent or not has already been considered by this Court in a decision reported in [(2017) 1 CTC 258], and that decision was also followed by me in other similar cases in WP.No.30160 of 2017 dated 18.12.2017. In the said decision, it is held that furnishing of such report to the delinquent is mandatory, in view of the provisions made under Section 81(3) of the said Act r/w Rule 104(7) of the said Rules. Admittedly, in this case, the petitioner was not served with such a report. Therefore, on that ground alone, the impugned order is liable to be set aside. Consequently, this writ petition is allowed and the impugned order is set aside and the matter is remitted back to the first respondent to pass a fresh order on merits and in accordance with law, after furnishing a copy of the report furnished by the second respondent dated 18.07.2017 to the petitioner within a period of two weeks from the date of receipt of a copy of this order. It is open to the petitioner to raise further contention if any, based on the report of the second respondent, before the first respondent, who in turn will hear the petitioner and pass a fresh order on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order. Till such time, the status quo as on today, insofar as the subject matter in issue is concerned, shall be maintained by both parties. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

mk

To

- 1.The Registrar of Co-operative Societies (Housing)
Vepery, Chennai-600 007.
- 2.The Deputy Registrar of Co-operative Societies (Housing)
Salem Region, Salem-16.

+1cc to Mr.R.Thamarai Selvan, Advocate, S.R.No.2893
+1cc to the Government Pleader, S.R.No.3673

W.P.No.206 of 2018

RRK(02/02/2018)