

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2018

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P.Nos.5711, 6444 & 6445 of 2018

in

W.M.P.Nos.7057, 7058, 28830,7957, 7958, 7959 & 7960 of 2018

Mr.P.Chandran ... Petitioner in  
W.P.No.5711 of 2018

Mr.S.RadhKrishnan ... Petitioner in  
W.P.No.6444 of 2018

Mr.N.Krinchiselvan ... Petitioner in  
W.P.No.6445 of 2018

Vs

The Deputy Registrar of Co-Operative Societies,  
Villupuram,  
Villupuram District and Another ... Respondent in  
all W.P.Nos.

The President,  
E 2028 Kandamanadi Primary Agricultural  
Co-Operative Credit Society,  
Villupuram Taluk,  
Villupuram District. ... Second Respondent in  
W.P.No.6444 of 2018 and in  
W.P.No. 6445/2018

Common Prayer: Writ Petition filed under Article 226 of the  
Constitution of India, praying to issue a writ of Certiorari or  
any other appropriate writ direction or order in the nature of  
writ, calling for the impugned order passed by 1<sup>st</sup> respondent in  
his proceeding in Na.Ka.4141/2016/ Ku Na dated 13.09.3017 and  
quash the same.

For Petitioners  
in all W.Ps : Mr.K.Govindaraj

For Respondents  
in all W.Ps : Mr.L.P.Shanmugasundaram  
Special Government Pleader

## C O M M O N   O R D E R

All these Writ Petitions have been filed challenging the common Surcharge order passed by the respondent under Section 87 (1) of the Tamil Nadu Co-operative Societies Act.

2. The main grievance of the petitioners is that based on the enquiry initiated under Section 81 of the Tamil Nadu Co-operative Societies Act, the petitioners have been implicated in a proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act (herein after called as "Act"). While conducting the enquiry under Section 87 of the Act, the respondents have failed to serve the copies of the enquiry report filed under Section 81 of the Act, and other reports to enable the petitioners to submit their explanation, which is mandatory in nature and without providing the copy of the report the impugned order has been passed. Hence these writ petitions.

3. The learned counsel for the petitioners submitted that the first respondent passed an impugned surcharge order under Section 87 of the Tamil Nadu Co-operative Societies Act without following the principles of law, and also violating the principles of natural justice. In view of non furnishing of the enquiry reports, the petitioners were not in a position to submit their explanation, and on that ground the order is liable to be set aside.

4. Mr.L.P.Shanmugasundaram, the learned Special Government Pleader fairly submitted that so far as the petitioners in W.P.No.5711 of 2018 and W.P.No.6444 of 2018 are concerned, enquiry report has been issued. The writ petitioner in W.P.No.6445 of 2018 was not served with the copy of the Section 81 enquiry report, but the copy of the enquiry report has been perused by the said writ petitioner.

5. I have heard the rival submissions made on both sides and perused the available records.

6. The enquiry under Section 87 of the Co-operative Societies Act has been initiated based on the report submitted under Section 81 of the Co-operative Societies Act and the respondent has also relied upon the above enquiry report for initiating surcharge proceedings under Section 87 of the Act. In the said circumstances, the petitioners are entitled to have a copy of the enquiry report enabling them to raise their objections during the enquiry. In the instance case, copy of the enquiry report was not served on the petitioners. In the said circumstances, for non furnishing of the copy of the enquiry report, the impugned order is liable to be set aside. Even though the enquiry report has been furnished to the petitioners in W.P.No.5711 and 6444 of 2018, as common order has been passed under Section 87 of the Tamil Nadu Co-operative Societies Act, the liability has been fixed on all the three writ petitioners jointly, and the impugned order cannot be set aside in respect of one of the writ petitioner alone. In the

said circumstances, the impugned order is liable to be set aside in respect of all the three writ petitioners in order to conduct a fresh enquiry after furnishing the copy of the enquiry report to the petitioner in W.P.No.6445 of 2018.

7. In the result, the impugned order is set aside and the matter is remanded back to the first respondent and the first respondent is directed to provide a copy of the enquiry report submitted under Section 81 of the Act and other documents, which are being relied upon by the enquiry officer, to the petitioner in W.P.No.6445 of 2018. Thereafter, the first respondent is directed to conduct a fresh enquiry and pass suitable orders on merits and in accordance with law after giving opportunity to the petitioners. The above exercise will be completed within a period of 6 weeks from the date of receipt of a copy of this order.

8. With the above direction this writ petition is disposed of. No costs. Consequently connected miscellaneous petitions are also closed.

dpq/mrp

Sd/-

Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

To

1.The Deputy Registrar of Co-Operative Societies,  
Villupuram,  
Villupuram District and Another

2.The President,  
E 2028 Kandamanadi Primary Agricultural  
Co-Operative Credit Society,  
Villupuram Taluk,  
Villupuram District.

+1cc to Mr.L.P.Shanmuga Sundaram, Advocate, S.R.No. 65438  
+1cc to the Government Pleader, S.R.No. 65496

W.P.Nos.5711, 6444 & 6445 of 2018  
in

W.M.P.Nos.7057, 7058, 28830,7957, 7958, 7959 & 7960 of 2018

AD(CO)  
GN(13/11/2018)