

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. No.3402 of 2017
and W.M.P.Nos.3383 & 3384 of 2017

M.Perumal,
S/o. Munusamy,
Kovilour Village,
Pulikarai Post, Palacode Taluk,
Dharmapuri District.

...Petitioner

..Vs..

1. The Deputy Registrar of Co-op.Societies,
Dharmapuri Circle,Dharmapuri District.
2. The Co-op. Sub Registrar/Field Officer (Pennagaram),
Section 81 Enquiry officer,
S. 6756 Ernahalli Primary Agricultural
Co-op. Credit Society, Ernahalli, Palacode Taluk,
Dharmapuri District.
3. The President,
S. 6756 Ernahalli Primary Agricultural
Co-op. Credit Society, Ernahalli Post, Palacode Taluk,
Dharmapuri District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari calling for the records relating to the impugned enquiry proceedings in Na.Ka.No.3729/2015/Tho.Sa.1 dated 07.10.2015 and its supplement proceedings dated 18.11.2015 passed by the 1st respondent herein and quash the same as being illegal, arbitrary, unconstitutional.

For Petitioner : Mr.M. Vijay Anand

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader (Co-op)

O R D E R

The relief sought for in this writ petition is to call for the records in relation to the order passed by the District Registrar of Cooperative Society for an inquiry under Section 81 of the Tamil Nadu Cooperative Societies Act and the consequential supplementary order dated 18.11.2015 and to quash the same.

2. Section 80 of the Tamil Nadu Cooperative Societies Act deals with Audit. The competent authorities are empowered to conduct Audit in respect of the Cooperative Societies. Section 81 deals with Inquiry. The competent authority under the provisions of the Act is empowered to conduct inquiry to find out the irregularities, illegalities, malpractices, other maladministration or any other activities of the Cooperative Societies across the State, which are all registered under the Cooperative Societies Act. Section 82 deals with Inspection. Section 87 deals with surcharge proceedings.

3. Ordering of an Inquiry under Section 81 is statutory in character. Such inquiries are ordered in order to find out the irregularities or illegalities or malpractices in the Cooperative Societies. Mere ordering of an inquiry under Section 81 will not confer any right on the candidates to claim that no inquiry should be conducted and they should not be compelled to furnish statements. Section 81 Inquiry being the statutory one, any person summoned has to give statements in respect of the functioning of the Society. Thus, mere ordering of an Inquiry will not confer any right to challenge the same before this Court in a writ jurisdiction under Article 226 of the Constitution of India.

4. The learned counsel appearing for the petitioner states that the Inquiry report under Section 81 had already been submitted on 05.07.2016. Based on the Inquiry Report, further actions have also been initiated under the provisions of the Act.

5. Three fold actions are permissible under the provisions of the Act. Based on the inquiry report, the disciplinary proceedings shall be initiated against the employees of the Cooperative Societies. Secondly a criminal prosecution can be launched before the criminal Court and a case can be registered by the Commercial Crime Investigation Wing of the Police Department. Thirdly, a surcharge proceedings also can be initiated to recover the financial loss occurred to the Cooperative Societies. This apart, Section 34 provides disqualification of the affected members of the Board, if they are found guilty of certain misconduct or offence or

irregularity, in relation to the administration of the Cooperative Society.

6. This being the legal provisions contemplated under the Cooperative Societies Act, the present writ petition which has been filed challenging Section 81 Inquiry cannot be considered at all. This is an inquiry stage, wherein the Deputy Registrar of Cooperative Society had ordered for an inquiry to find out the irregularities or illegalities, if any occurred in the Cooperative Society. Even otherwise also if any surcharge proceedings are initiated, the person against whom such notice was issued has to submit his explanation / objection in respect of the same and participate in the Inquiry to be conducted by the competent authority.

7. After passing of the final orders under Section 87 of the Act, the person aggrieved has to approach the designated Cooperative Tribunal constituted under Section 152 of the Tamil Nadu Cooperative Societies Act. This being the legal principles to be followed, the present writ petition is not only premature and cannot be entertained, on the simple ground that mere ordering of an Inquiry will not constitute any cause of action for the purpose of moving the present writ petition. If at all any ground exist for the writ petitioner, the same has to be raised, if any action initiated based on the Enquiry report submitted by the Enquiry Officer under Section 81 of the Act and therefore, the writ petition is devoid of merits and the same stands dismissed with the above observation. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

To

1. The Deputy Registrar of Co-op.Societies,
Dharmapuri Circle,Dharmapredit Suri District.
2. The Co-op. Sub Registrar/Field Officer (Pennagaram),
Section 81 Enquiry officer,
S. 6756 Ernahalli Primary Agricultural
Co-op. Cociety, Ernahalli, Palacode Taluk,
Dharmapuri District.

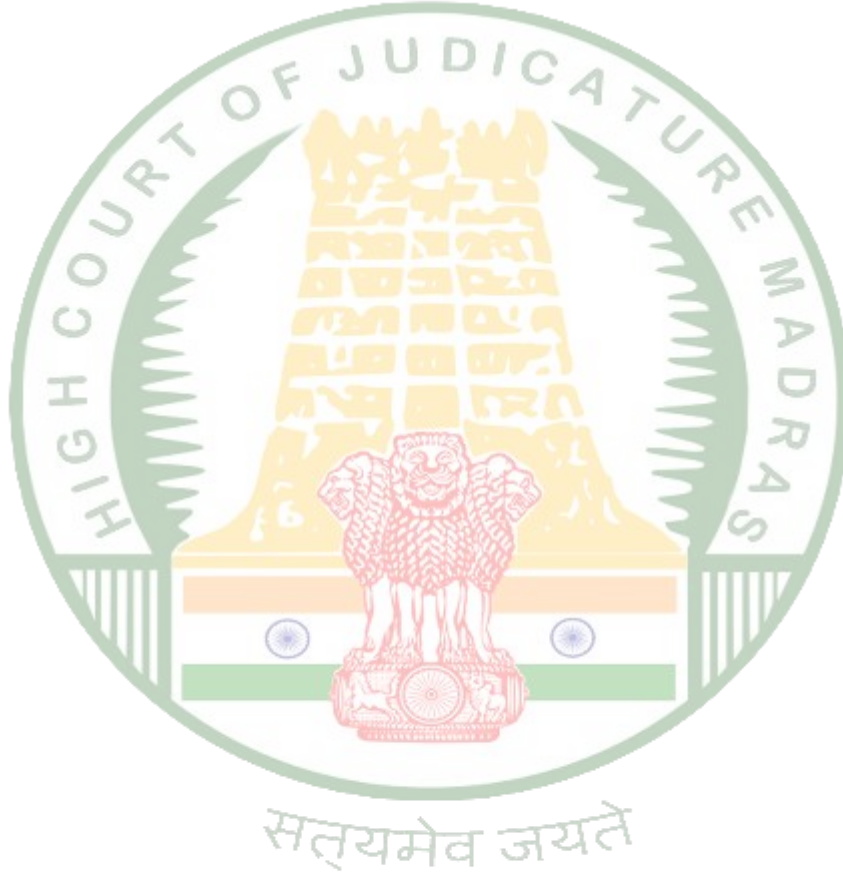
+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.55813

+1cc to Mr.M.Vijay Anand, Advocate, S.R.No.55723

+1cc to the Government Pleader, S.R.No.56068

WP.No.3402 of 2017

GSP (07/09/2018)



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