

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.12.2018

CORAM
THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.27221 of 2018
and W.M.P.Nos.31656 and 31660 of 2018

A.Sivagnanam

...Petitioner

-Vs-

1.The Deputy Registrar of Cooperative Societies
Vridhachalam Circle, Junction Road,
Vridhachalam,
Cuddalore District.

2.The Enquiry Officer / Field Officer
O/o Deputy Registrar of Cooperative Societies
Vridhachalam Circle, Junction Road
Cuddalore District.

3.The President, E.2192, Vadapathi Primary
Agricultural Cooperative Credit Society
Vadapathi, S.Naraiyur Post-606 301
Veppur Taluk,
Cuddalore District.

...Respondents

For Petitioner : M/s.C.Prakasam

For Respondent : Mr.L.P.Shanmugasundaram,
Special Government Pleader

Prayer : Writ Petition filed under Article 226 of the
Constitution of India seeking a writ of Certiorari calling for
the entire records relating to the impugned order passed by the
first respondent in his proceedings Na.Ka.902/2017
Tho.Vae.Sa.dated 16.07.2018 and quash the same.

O R D E R

This writ petition has been filed, seeking direction to
quash the proceedings dated 16.07.2018 and to pass such further
appropriate orders.

2. By the proceedings dated 16.07.2018, an enquiry under Section 81 of the Tamilnadu Cooperative Societies Act, 1983, was ordered on the allegation that the petitioner herein, while working as Senior Clerk in Vadapathi Primary Agricultural Cooperative Credit Society, during the period 01.04.2010 to 31.03.2013, had committed misappropriation in respect of the savings account Nos.672, 1131, 1170 and 1004 held by one Mr.Thangarasu, Mr.Razack, Ms.Palaniammal and Mr.A.Ayyamperumal respectively. This order is under challenge on the ground that in respect of the same charges, already enquiry has been commenced and criminal prosecution has been initiated and it is pending.

3. The second respondent issued summons to the petitioner to appear before him. The petitioner appeared and explained that already the first respondent had ordered enquiry under Section 81 on 21.10.2003 for the very same alleged irregularities and in this connection the enquiry officer has already submitted a report before the first respondent on 30.01.2014. After the said report, the details of persons involved in the offence has been mentioned and thereafter police complaint was lodged. The criminal complaint is pending for trial before the Judicial Magistrate, Panruti, Cuddalore District. It is claimed that the persons who were named as accused in the final report, has been reinstated into service and they are currently employed in the third respondent society. The grievance of the petitioner is that the officials, in order to escape from the clutches of law, has joined hands with respondents 1 and 2 and ordered fresh enquiry and issued summons against the petitioner. On receipt of the summons, the petitioner appeared before the second respondent and made a representation dated 03.09.2018 seeking for copies of the report and that has not been furnished.

3. The respondents have filed a counter, admitting that there had been a previous enquiry ordered under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 in proceedings No.RC.7682/13 Tho.Ve.Sa dated 21.10.2013 to conduct enquiry (for the period from 01.04.2010 to 19.10.2013) with regard to the financial irregularities committed in the savings accounts, crop loan and issue of fertilizers to the members. The Cooperative Sub Registrar / Field Officer, Mangalur was authorized to conduct the same. The enquiry officer conducted the enquiry and submitted his enquiry report on 30.01.2014. The findings reads as follows.

(i)	When there is no amount available to the credit of savings account holders fictitious entries were made as though Rs.6,01,000 was drawn from the accounts and misappropriated	Rs.6,01,000
(ii)	Fictitious entries was made and misappropriated as withdrawal from savings account in respect of members, who do not have any savings account	Rs.23,00,000
(iii)	The amount drawn from the Cuddalore cooperative central bank, Thozhudur branch from the savings account of the society was not brought in to account immediately, but misappropriated.	Rs.32,00,000
(iv)	Misappropriation of Rs.2,65,000/- by making false entries in the books of accounts as though the said amount was taken for remittance in the Cuddalore Co-op Central Banch, Thozhudhur branch.	Rs.2,65,000
(v)	False entries was recorded in the fertilizer stock register and fertilizer sales bill as though fertilizer was distributed in fictitious name and Rs.4,18,140 was misappropriated.	Rs.4,18,140
	Total	Rs.67,84,140

It was further submitted that based on the findings of the enquiry, prosecution actions, surcharge proceedings and disqualification action under Section 36 of the TNCS Act 1983 against the President of the Society, Thiru.Senthil and disciplinary action was taken against the concerned and these actions are in progress.

4. Learned counsel for the petitioner would submit that for the alleged irregularities taken place in the Society between 01.04.2010 to 31.03.2013, there had been a previous action and therefore, the present action is a double jeopardy, which cannot be permitted.

5. Learned counsel for the respondents would submit that the subsequent proceedings initiated are in respect of a different transaction and it does not have any connection with the previous enquiry. It is pointed out that the allegations are pertaining to the Savings Bank accounts maintained by one Mr.Thangarasu, Mr.Razack, Ms.Palaniammal and Mr.A.Ayyamperumal. Learned counsel for the petitioner relied upon the enquiry report dated 26.03.2018, which deals extensively with the

allegations made in respect of those four persons and gives a complete exoneration of all the malpractices allegedly committed by this petitioner.

5. Learned counsel for the petitioner also pointed out that the findings of the earlier report dated 30.01.2014, wherein it has been specifically mentioned that the petitioner was sent on "Other Duty" on and from 14.09.2012 and he has no role to play in the alleged irregularities. It is further submitted that when in the earlier proceedings, it is stated the petitioner was sent to Chennai Central Cooperative Bank on and from 14.09.2012, it is not known as to how for the subsequent period, he can be made accountable. The findings in the earlier report is that there had been no misappropriation or irregularities prior to the petitioner moving to Chennai Central Cooperative Bank and only after he was sent for "Other Duty". Authorisation has been

given to somebody else to look into the financial transactions and only during that time misappropriation had taken place. The specific names of Annadurai, Padmanathan, Senthil, Babu and Jaganathan, are mentioned in the report as persons responsible for the alleged financial irregularities.

6. Under such circumstances, when there is complete exoneration of the petitioner from the charges by the earlier report dated 30.01.2014, the impugned proceedings dated 16.07.2018 is liable to be quashed and it is accordingly quashed. The writ petition is disposed of accordingly. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kst

To

1.The Deputy Registrar of Cooperative Societies
Vridhachalam Circle, Junction Road,
Vridhachalam, Cuddalore District.

2.The Enquiry Officer / Field Officer
O/o Deputy Registrar of Cooperative Societies
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3.The President, E.2192, Vadapathi Primary
Agricultural Cooperative Credit Society
Vadapathi, S.Naraiyur Post-606 301
Veppur Taluk, Cuddalore District.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.87249
+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.87748
+1cc to the Government Pleader, S.R.No.87909

W.P.No.27221 of 2018

rrs 03/01/2019



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