



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2018

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition (MD) No.2130 of 2018

and

W.M.P (MD) No.2374 of 2018

R.Poomayil

... Petitioner

Vs.

1.The Secretary to the
Government, Co-operation,
Food and Consumer Protection Department,
Secretariat,
St., George Fort,
Chennai.

2.The Registrar of Co-operative Societies,
Keelpaukkam, Chennai.

3.The Joint Registrar Co-operative Societies,
Ramanathapuram District,
Ramanathapuram.

4.K.Jeyakumar/Special Officer,
Q 1281 Pookulam Primary Agriculture Credit Society,
Pookulam, Muthukulathur Taluk,
Ramanathapuram District,
Ramanathapuram.

5.The Deputy Registrar Cooperative Societies,
Paramakudi Circle, Paramakudi,
Ramanathapuram District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records on the file of 3rd respondent vide proceedings Na.Ka. 7444/2017/Sa.Pa. dated 11.01.2018 so far as petitioner concerned under section 88(1) of the Tamil Nadu Co operative Societies Act and quash the same as illegal as devoid of merits.

For Petitioner : Mr.Raja Karthikeyan

For Respondents 1-3&5 : Mr.M.Rajaraman,
Government Advocate.

For 4th Respondent : No appearance

**ORDER**

This writ petition has been filed challenging the order passed by the third respondent under Section 88(1) of the Tamil Nadu Co-operative Societies Act.

2. Heard Mr. Raja. Karthikeyan, learned counsel appearing for the petitioner and Mr. M. Rajarajan, learned Government Advocate appearing for the respondents 1 to 3 and 5.

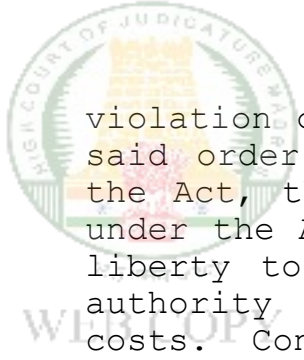
3. Learned counsel appearing for the petitioner would contend that the third respondent has passed the impugned order without following the procedures contemplated under Sections 81 and 88 read with Rule 104(7) of the Tamil Nadu Co-operative Societies Act (in short, 'the Act') and passed the order in violation of principles of natural justice. In support of his contentions, learned counsel for the petitioner relied upon a decision of this Court reported in 2017 (1) CTC 258 (C. Kamaraj Vs. The Registrar of Co-operative Societies).

4. From the perusal of the impugned order passed by the third respondent, it could be seen that already proceedings under Section 81 of the Act has been initiated against the petitioner and others for causing loss to the society to the tune of Rs. 6,63,213/-. Apart from that an enquiry notice was also issued to the petitioner's husband namely, one Ramachandran. Challenging the said notice, he has filed W.P(MD) No. 8093 of 2017 and obtained an order of interim stay. Subsequently, the present proceedings has been issued under Section 88 of the Act and a notice also issued asking the petitioner to submit his reply within 15 days but the petitioner sought more time to file her objections. In the above circumstances, the third respondent has held that the petitioner is intending to drag on the proceedings and hence, based on the materials available on record, passed the impugned order.

5. The order impugned in the writ petition has been passed by the third respondent under Section 88 of the Act. Admittedly, against the impugned order, there is an appeal remedy available under Section 152 of the Act. The petitioner has approached this Court without availing such remedy and therefore, she cannot maintain the writ petition.

6. Learned counsel appearing for the petitioner would submit that since the impugned order has been passed in violation of principles of natural justice and without giving an opportunity to the petitioner, the writ petition is maintainable.

7. Admittedly, an opportunity has been given to the petitioner by giving 15 days time to file her objections but the petitioner did not avail such opportunity. Therefore, now, the petitioner cannot contend that the impugned order has been passed in



violation of principles of natural justice. Further, as against the said order, there is appeal remedy available under Section 152 of the Act, the petitioner has to exhaust the appeal remedy available under the Act. Accordingly, the writ petition is dismissed with the liberty to the petitioner to file an appeal before the competent authority in the manner known to law, if she is so advised. No costs. Consequently, W.M.P(MD)No.2374 of 2018 is closed.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1.The Secretary to Government of Tamil Nadu Co-operation,
Food and Consumer Protection Department,
Secretariat, St.George Fort,
Chennai.

2.The Registrar of Co-operative Societies,
Keelpaukkam, Chennai.

3.The Joint Registrar Co-operative Societies,
Ramanathapuram District, Ramanathapuram.

4.The Deputy Registrar Cooperative Societies,
Paramakudi Circle, Paramakudi,
Ramanathapuram District.

+1cc to M/S.RAJAKARTHIKEYAN, Advocate SR.No.45771.

+1cc to Special Government Pleader in SR.No.46588.

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and

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02.02.2018

sms

SDS/SV:MMS/SAR 4/23.02.2018/3P/7C