



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.02.2018
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No. 22119 of 2017
and
W.M.P. (MD). No. 18418 of 2017

P.Pitchaimariappan .. Petitioner
Vs.

- 1.The Joint Registrar of Cooperative Societies,
O/o.the Joint Registrar of Cooperative Societies,
Virudhunagar,
Virudhunagar District.
 2. The Deputy Registrar of Cooperative Societies,
O/o.the Deputy Registrar of Cooperative Societies,
Srivilliputhur Circle,
Virudhunagar District.
 - 3.The President,
SP.SPL 99, Kosukundu Primary Agricultural
Cooperative Credit Society,
Kosukundu,
Virudhunagar District.
- .. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent vide ந.க.6705/15 சப நாள் 24.11.2017 and quash the same.

For Petitioner : Mr. Shanmugha Rajasethupathi
for Mr.D.Senthil
For R-1 & 2 : Mr. K.Saravanan
Government Advocate
For R-3 : Mr.Rajendran

O R D E R

Heard the learned counsel on either side.

2. The petitioner is employed as a Secretary in the third respondent/Society. Enquiry under Section 81 of Tamil Nadu Cooperative Societies Act (in short 'the Act') was ordered to be conducted by proceedings dated 07.10.2015 issued by the second respondent herein. Enquiry report was submitted on 14.03.2016. Pursuant thereto, the surcharge proceedings were also initiated in June 2016. The petitioner has also been implicated in Crime No.4 of 2016 registered on the file of the Inspector of Police, Commercial Crime Investigation Wing, Virudhunagar. The criminal case is pending



at the investigation stage and the final report is yet to be filed. Whiles, the first respondent has passed the impugned order dated 24.11.2017, suspending the petitioner for a period of six months. The same is assailed in this writ petition.

3. The learned counsel appearing for the petitioner submits that on the same set of facts, the petitioner was earlier suspended on 22.10.2016. Subsequently pursuant to the Board resolution, suspension was revoked on 09.11.2016. Therefore, the primary contention taken by the petitioner is that there cannot be a second suspension on the same set of facts. But this contention is not gone into as a serious objection is raised regarding genuineness.

4. The learned Government Advocate appearing for respondents 1 and 2 would submit that earlier, a direction was issued by the first respondent for taking action against the petitioner, but since the Board did not comply with the said direction, the impugned order came to be passed.

5. A reading of the order of suspension would show that the cause of action set out therein relates to the year 2013. Even the enquiry under Section 81 of the Act was conducted and concluded in March, 2015 and surcharge proceedings also got concluded in 2016 itself and the learned counsel submits that the surcharge order has been challenged by filing an Civil Miscellaneous Appeal before the District Court/ Cooperative Tribunal. The Criminal Case is also of the year 2016.

6. No doubt the first respondent is competent to pass the impugned order of suspension. But then the question is whether the first respondent is justified in doing so. An order of suspension is made following the submission of the enquiry report under Section 81 of the Act or registration of criminal case. In this case the enquiry report had been submitted way back in March 2015. The criminal case was also registered in October 2016. The impugned action is clearly not proximate. The cause of action is almost five years old. In such circumstances, this Court is of the view that the impugned order of suspension is not justified.

7. In this view of the matter, the impugned order is quashed. It is made clear that the authorities are at liberty to take disciplinary action against the petitioner in accordance with law.

8. This Writ petition stands allowed accordingly. No costs. Consequently, W.M.P. (MD). No. 18418 of 2017 is closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/



To:

1. The Joint Registrar of Cooperative Societies,
O/o. the Joint Registrar of Cooperative Societies,
Virudhunagar,
Virudhunagar District.

2. The Deputy Registrar of Cooperative Societies,
O/o. the Deputy Registrar of Cooperative Societies,
Srivilliputhur Circle,
Virudhunagar District.

+1cc to M/S.M.Rajendran, Advocate SR.No. 45862

+1cc to M/S.D.Senthil, Advocate SR.No. 46253

+1cc to Special Government Pleader, SR.No. 46563

ORDER MADE IN
W.P. (MD) .No.22119 of 2017

kmi

JM/JC/SAR 4/03.05.2018/3P/6C