

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.11620 of 2010 and MP No.1 of 2010

B.Moorthy

... Petitioner

Vs.

1. The Registrar of Co-operative Societies,
N.V.N.Maligai, Kilpauk, Chennai 600 010.

2. The Joint Registrar of Co-operative Societies,
Dharmapuri Region, Dharmapuri District

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, for a Writ of Certiorari to call for the records in R.C.No.375/09/patho dated 17.04.2010 passed by the 2nd respondent herein and quash the same.

For Petitioner : Mr.S.Sathish for
Mr.T.Sundaravadanam

For Respondents : Mr.L.P.Shanmugasundaram
Special Government Pleader for
R1 & R2

O R D E R

The instant writ petition has been passed filed challenging the Charge Memo issued by the 2nd respondent in R.C.No.375/09/patho dated 17.04.2010 and to quash the same.

2. It is well settled fact that Writ Courts must be very slow in interfering with the Charge Memo. The Hon'ble Supreme Court in Union of India v. Kunisetty Satyanarayana in 2006 12 SCC 28 has observed as under :

13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge-sheet or show-cause notice vide Executive Engineer, Bihar State Housing Board v. Ramesh Kumar Singh [(1996) 1 SCC 327 : JT (1995) 8 SC 331] , Special Director v. Mohd. Ghulam Ghouse [(2004) 3 SCC 440 : 2004 SCC (Cri) 826 : AIR 2004 SC 1467] , Ulagappa v. Divisional Commr., Mysore [

(2001) 10 SCC 639] , State of U.P. v. Brahm Datt Sharma [(1987) 2 SCC 179 : (1987) 3 ATC 319 : AIR 1987 SC 943] , etc.

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge-sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.

3. In view of the Judgement of the Hon'ble Supreme Court in Union of India v. Kunisetty Satyanarayana (supra), this Writ petition is dismissed. Needless to state that it will be open to the petitioner to raise all his arguments in the Disciplinary proceedings. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

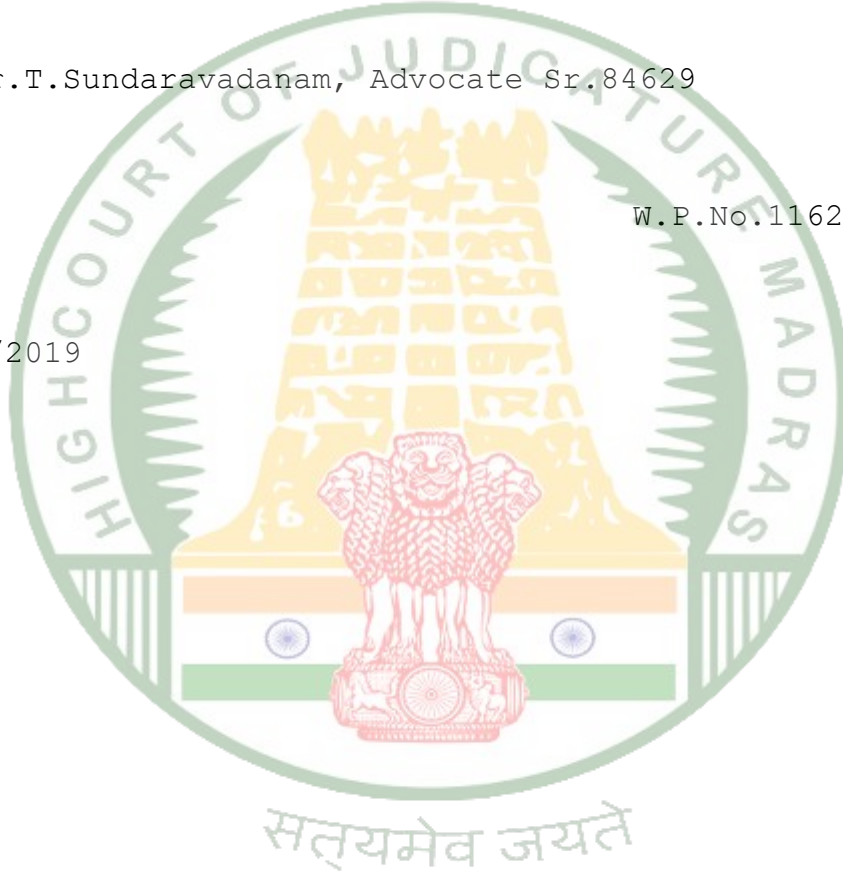
To

1. The Registrar of Co-operative Societies,
N.V.N.Maligai, Kilpauk, Chennai 600 010.
2. The Joint Registrar of Co-operative Societies,
Dharmapuri Region, Dharmapuri District.

+1cc to Mr.T.Sundaravadanam, Advocate Sr.84629

W.P.No.11620 of 2010

BS (CO)
srg 12/12/2019



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