

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.26717 of 2018

M.Manickam

.. Petitioner

/versus/

1. Registrar of Co-operative Societies,
Kilpauk, Chennai-600 010.
2. Regional Joint Registrar of
Co-operative Societies,
Collector Office campus,
Salem-636 001. Salem District.
3. Zonal Deputy Registrar of
Co-operative Societies,
Salem District Central
Co-operative Bank campus,
Salem-636 001. Salem District.
4. President,
S.1351 Primary Agricultural
Co-operative Credit Society,
Periyagoundapuram,
Vazhapadi Taluk, Salem District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issue of Writ of Mandamus, directing the respondents to conduct enquiry from 01.01.2009 to 31.10.2017 as per proceedings of the 3rd respondent in Na.Ka.No.6169/2014/Tho.Va.Koo.Ka.Sa (1) dated 21.11.2017 by considering the representation dated 27.03.2018 and take action against the persons who are responsible for the same.

For Petitioner : Mr.P.Ganesan

For Respondents : Mrs.T.Girija, GA for R1 to R3

Mr.L.P.Shanmugasundaram, SGP for R4

O R D E R

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents 1 to 3.

2. The petitioner herein is a member of the 4th respondent society and contributed to the Crop Insurance Scheme. After collecting premium amount from the farmers, the same has not been properly accounted and deposited in the account by the 4th respondent. Hence, the members of the society were gravely affected. With these allegations, the petitioner herein has earlier filed a writ petition in W.P.No.8924 of 2015 seeking Mandamus directing the respondents to take action on the representation dated 25.01.2015 to conduct enquiry regarding the crop insurance premium deducted from the crop loan advanced to the members. In this writ petition, a direction was issued by this Court to consider and dispose of the representation in accordance with law, which was not done by the respondents. Hence, the contempt petition was filed by the petitioner in contempt petition No.2587 of 2016. When the respondents informed the Court that disciplinary proceedings have been initiated and appropriate orders will be passed within a period of four weeks, recording the same, the contempt petition was closed.

3. Despite an undertaking given by the respondents, the respondents have not taken proper action on the grave complaint given by the petitioner regarding misappropriation of insurance premium collected from the members. From the affidavit, this Court finds that the petitioner again approached this Court and filed the W.P No 6431/2017 to get redressal that also went in vain. The prime grievance of the petitioner herein is that vide representation dated 25.01.2015 and thereafter the 4th respondent society after collecting premium from the petitioner for insurance while advancing crop loan, the premium amount has not been properly remitted to the insurance company, as the consequence, they are not able to get compensation for the insured crops.

4. However from the counter affidavit of the first respondent, this court finds that pursuant to the earlier representation of the petitioner dated 25.01.2015, enquiry under section 81 of the Tamil Nadu Co-operative Societies Act has been initiated and the enquiry report reveals that 122 members attended the enquiry proceedings and thereafter it was found that the society has incurred heavy loss. There is some dereliction of duty on the part of secretary Elango, a punishment was passed withholding his increment for one year without cumulative effect. In the counter it is stated that for the very same period and for cause of action, the petitioner herein repeatedly filing petitions seeking action against the erred staff of the 4th respondent society, which is not permissible, since the person once punished cannot be punished again for the same offence.

5. The learned counsel appearing for petitioner submits that the allegation against the staff of the 4th respondent society span from 2009 to 2017. The so called punishment imposed on Elango in the year 2015 cannot be reason for not properly conducting enquiry and taking action against the erred officials for misappropriation of the society fund subsequent to 2015.

6. This court also finds some merit in the submission made by learned counsel for the petitioner.

7. When grave allegation of misappropriation was made, early enquiry and action taken cannot be the answer for the subsequent allegation upto 2017. The action taken in the year 2013 cannot be an excuse for the offence committed for the subsequent period. Hence, the respondents 1 to 3 shall consider the complaint of the petitioner herein, conduct fresh de nova enquiry under section 81 and complete the same within a period of 4 months from today and thereafter proceed in accordance with Law.

8. With the above observation, this writ petition is disposed of. No costs.

-s/d-

Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

rpl

To

1.Registrar of Co-operative Societies,
Kilpauk, Chennai-600 010.

2.Regional Joint Registrar of
Co-operative Societies,
Collector Office campus,
Salem-636 001. Salem District.

3.Zonal Deputy Registrar of
Co-operative Societies,
Salem District Central
Co-operative Bank campus,
Salem-636 001. Salem District.

+1 CC to M/s.C.S. Associates sr 93729

+1 CC to Mr.L.P.Shanmugasundaram, Advocate sr 93453.

W.P.No.26717 of 2018

RSK(CO)
SP(14/11/2019)