



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P. (MD).No.7197 of 2011
and
MP(MD)Nos.2 and 3 of 2011

M.Jeyamani

... Petitioner

-Vs-

1.The Deputy Registrar of Co-operative Societies,
Karaikudi Circle, Sivagangai,
Sivagangai District.

2.The Special Officer,
RD.145, Tamil Nadu State Transport Corporation,
Employees Co-operative Thrift and Credit Society,
Annanagar, Kovilur, Karaikudi,
Sivagangai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the 1st respondent's impugned enquiry ordered dated 29.04.2011 bearing Na.Ka.No.965/2011 NaVaVa and quash the same.

For Petitioner : Mr.R.Saravanan

For Respondent : Mr.K.Mu.Muthu

Additional Government Pleader
(for R-1)

No Appearance (for R-1)

ORDER

The statutory enquiry ordered under Section 81 of the Tamil Nadu Co-operative Societies Act in proceedings, dated 14.11.2007, is under challenge in the present writ petition.

2.The writ petitioner is working as a Secretary in the second respondent / Co-operative Societies, which is a registered Society under the provisions of the Tamil Nadu Co-operative Societies Act. The main grievances of the writ petitioner is that in respect of the same period, an enquiry under Section 81 of the Act was already conducted by the competent authorities and therefore, another enquiry in reference to the same period cannot be conducted at



all. In other words, the writ petitioner states there cannot be two statutory enquiries with reference to the same period.

3.The learned counsel for the writ petitioner further states that based on the earlier enquiry, a notice was issued to the writ petitioner and certain actions were also initiated. Thus, the second enquiry was ordered under Section 81 of the Co-operative Societies Act is impermissible and accordingly, the impugned order is liable to be scrapped.

4.The learned Additional Government Pleader appearing on behalf of the first respondent disputed the grounds raised on behalf of the writ petitioner by stating that the writ petitioner cannot challenge the statutory enquiry under Section 81 of the Act. In case of any doubt, in respect of the earlier enquiry, the competent authorities under the Act can conduct another enquiry to cull out the truth behind the allegations, financial loss, irregularities or otherwise into the affairs of the Co-operative Societies Act.

5.This Court is of the considered opinion that the statutory enquiry is contemplated under the provisions of the Tamil Nadu Co-operative Societies Act. Section 80 deals with Audit. Section 81 states that the Registrar may, of his own motion and shall, on the application of a majority of the Board or of not less than one-third of the members or on the request of the financing bank or of the District Collector, hold an inquiry, or direct some person authorized by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society or any alleged misappropriation, fraudulent retention of any money or property, breach of trust, corrupt practice, or mismanagement in relation to that society or into any particular aspect of the working of that society. Thus, Section 81 provides a wide scope for the authorities to conduct statutory enquiry into the affairs of the Co-operative Societies registered under the provisions of the Tamil Nadu Co-operative Societies Act.

6.Section 82 provides for inspection and investigation. Thus, both the provisions namely Sections 81 and 82 empowers the competent authority under the Act to conduct enquiry inspections, investigations into the affairs of the Co-operative Societies to cull out the truth regarding the complaints or otherwise and to ascertain the correctness of the affairs of the Co-operative Societies Act. This being the very purpose and object of the said provisions, there is no limitation for ordering Section 81 enquiry for more than one occasion.

7.If an enquiry officer submits a report which is not satisfactory to the competent authority within the said competent authority may order for another enquiry under Section 81 of the Act. There is no impediment to order for more than one enquiry under Section 81 or 82 of the Act. This being the purpose and object of



the Section 81, this Court is of the opinion that the grounds raised by the writ petitioner that in respect of the same tenure, no further enquiry can be ordered under Section 81 cannot be accepted at all. Section 81 enquiry can be ordered on many occasions, based on certain complaints, information or the Registrar on his own motion. Thus, the correctness or otherwise of the functioning of the society can be inspected and enquired into by the competent authorities, even for more than one occasion and on several occasions.

8.The writ petitioner is working as a Secretary of the society. He is in no way aggrieved from and out any such statutory enquiry to be conducted by the competent authority. He being an employee and holding the responsible post of the Secretary is undoubtedly answerable and accountable to the management as well as to the authorities competent under the provisions of the Act. The secretary of a Co-operative Society is accountable for the administrative affairs of a Co-operative Society and he cannot be construed as an aggrieved person in respect of the order passed by the respondent ordered for an enquiry under Section 81 of the Act. Thus, the writ petitioner has not established any cause of action for the purpose of challenging the impugned order passed by the respondent to conduct an enquiry under Section 81 of the Act.

9.After conducting an enquiry and on receipt of the report from the enquiry officer under Section 81 of the Act threefold actions are permissible. If at all the enquiry report contemplates certain irregularity, illegality, misappropriation etc., then, a criminal case has to be registered by filing a complaint before the Commercial Crime Investigation Wing of the Police Department. Secondly, departmental disciplinary proceedings can be initiated for the misconduct under the Discipline and Appeal Rules. Thirdly, the surcharge proceedings can be initiated under Section 87 of the Act, for compensating the financial loss, if any occurred to the Co-operative Societies.

10.All these three actions, can be initiated simultaneously against the employees, members or other persons who all are involved in the irregularities or illegalities. There is no bar with regard to the initiation of all these three actions simultaneously. Thus, only in the event of initiation of such action, after completion of the enquiry under Section 81 of the Act, the writ petitioner may get the cause of action, if any, actions are being initiated and not otherwise. Even if any such actions are initiated, the writ petitioner is bound to exhaust the remedies available under the provisions of the Act and therefore, only then he can approach the High Court and not otherwise. This being the principles to be followed, there is no impediment for the authorities competent to order, for an enquiry of under Section 81 of the Act for more than one occasion and there is no illegality as such. Accordingly, there



is no infirmity in the impugned order and the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

WEB COPY

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

1.The Deputy Registrar of Co-operative Societies,
Karaikudi Circle, Sivagangai,
Sivagangai District.

2.The Special Officer,
RD.145, Tamil Nadu State Transport Corporation,
Employees Co-operative Thrift and Credit Society,
Annanagar, Kovilur, Karaikudi,
Sivagangai District.

+1 CC to M/s.R.SARAVANAN, Advocate (SR-80986[F] dated 09/08/2019)

+1 CC to M/s.SPL GP (SR-81477[F] dated 13/08/2019)

W.P. (MD) .No.7197 of 2011
09.08.2019

sjj
JM/29.08.2019/4P/5C