



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.2993 of 2012

and

M.P.(MD) Nos.1 & 2 of 2012 & 1 of 2013

P.Karuppiah

... Petitioner

vs.

1.The Deputy Registrar of Co-operative Society
Paramakudi Circle
Paramakudi, Ramanathapuram District

2.The Enquiry Officer
(U/s.81 of T.N.C.S.Act)
Office of the Deputy Registrar of Co-operatives
Paramakudi, Ramanathapuram District

3.The Special Officer
Orivayal Primary Agricultural
Co-operative Credit Society
Orivayal
Kadaladi Taluk,
Ramanathapuram District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records pertaining to the impugned enquiry report dated 13.09.2011 passed by the 2nd respondent and quash the same in so far as petitioner is concerned.

For Petitioner : Mr.D.Sadiq Raja

For Respondents : Mr.S.Dhayalan
Government Advocate for R1 & R2
No appearance for R3

**ORDER**

The show-cause notice, dated 17.12.2011, issued by the second respondent, under Section 87(1) of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter, referred to as "the Act"), is under challenge in the present writ petition.

2. The writ petitioner was initially appointed as Secretary in the third respondent / Cooperative Society. A statutory enquiry under Section 81 of the Act was ordered by the competent authority to conduct an enquiry into the affairs of the Cooperative Society. Based on the final report submitted under Section 81 of the Act, surcharge proceedings were initiated against the writ petitioner and a notice was issued in the impugned proceedings, dated 17.12.2011, calling upon the writ petitioner to submit his explanation, within a period of fifteen days, from the date of receipt of the notice. Instead of submitting his explanation in respect of the allegations set out in the show-cause notice, the writ petitioner has chosen to file the present writ petition.

3. The writ petition cannot be entertained in view of the fact that the impugned order, dated 17.12.2011, is a show-cause notice issued under Section 87(1) of the Act seeking explanation of the writ petitioner. Thus, the writ petitioner has to submit an explanation and thereafter, an enquiry is to be conducted by the competent authority, namely, Deputy Registrar of the Cooperative Societies and after conducting an enquiry, a final order in the surcharge proceedings is to be passed under Section 87 of the Act. If a final order is passed and the grievance of the writ petitioner exists even thereafter, then the writ petitioner has to approach the Special Tribunal for cooperative cases constituted under Section 152 of the Act. The respective Principal District Judges are designated as the Presiding Officers for the Special Tribunals for cooperative cases. Thus, after the final orders are passed under Section 87 of the Act, the writ petitioner if aggrieved, then he has to approach the Tribunal under Section 152 of the Act. This being the procedures contemplated, in order to redress the grievance of the writ petitioner, no writ proceedings can be entertained against the show-cause notice issued under Section 87(1) of the Act seeking explanation of the writ petitioner in respect of certain irregularities and financial loss caused to the Cooperative Society. Under these circumstances, the writ petitioner is at liberty to submit his explanation / objection in respect of the impugned show-cause notice and defend his case by participating in the enquiry proceedings to be conducted by the Deputy Registrar of the Cooperative Societies. However, the writ petition cannot be entertained as the writ petitioner has not established any acceptable legal ground for the purpose of interfering with the show-cause notice issued under Section 87(1) of the Act.



4. Accordingly, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Crl. Side)

WEB COPY

/TRUE COPY/

Sub Assistant Registrar

To:

1.The Deputy Registrar of Co-operative Society,
Paramakudi Circle,
Paramakudi, Ramanathapuram District.

2.The Enquiry Officer,
(U/s.81 of T.N.C.S.Act),
Office of the Deputy Registrar of Co-operatives,
Paramakudi, Ramanathapuram District.

+1 CC to M/s.D.SADIQ RAJA, Advocate (SR-83958[F] dated 28/08/2019)

+1 CC to M/s.SPL GP (SR-83986[F] dated 28/08/2019)

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27.08.2019

krk

JM/10.09.2019/3P/5C