



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.09.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD) No.13451 of 2019

and

W.M.P. (MD) .Nos.10001 & 13496 of 2019

Braind Louis

... Petitioner

vs.

1.The Deputy Registrar of Co-operative Societies,
Palace Road, Thakkalai,
Kalkulam Taluk, Kanyakumari District.

2.The Field Officer,
Y-178, Eraviputhoorkadai Primary
Agricultural Co-operative Credit Society Limited,
kattathurai, Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records relating to the impugned order passed by the first respondent vide his proceedings in Na.Ka.No.1532 / 2019 / Sa.Pa. Dated 29.05.2019 and quash the same.

For Petitioner : Mr.S.Deenadhayalan

For Respondent No.2 : Mr.K.Ragtheeshkumar
for M/s.Isaac Chambers

For Respondent No.1 : Mr.J.Gunaseelan Muthiah,
Additional Government Pleader

O R D E R

The instant Writ Petition is filed to quash the impugned order passed by the first respondent vide his proceedings in Na.Ka.No.1532 / 2019 / Sa.Pa. Dated 29.05.2019

2. The first respondent has issued a show cause notice to the petitioner under Rule 62(3) of Tamil Nadu Co-operative Societies Act, 1988. Hence, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner would submit that the petitioner was served as President of Y-178,
<https://hcservices.courts.tn.gov.in/hcservices/>



Eraviputhoorkadai Primary Agricultural Cooperative Credit Society Limited at Kattathurai, Kanyakumari and the aforesaid society contains totally 11-Board members and 8 of them have given representation to bring no confidence motion to and disqualify him. Pursuant to the receipt of the representation, the first respondent has issued a show cause notice under Rule 62(3) of the Tamilnadu Societies Act. The Rule 62(3) of the Tamilnadu Societies Act is extracted hereunder:

"As soon as such a requisition is received, the Registrar shall communicate a copy of the requisition to the officer-bearer concerned, calling upon him to make his representation, if any, within such time as may be specified by him. The Registrar shall, within thirty days from the date of receipt of such requisition arrange to convene a special meeting of the board of the society, for consideration of the resolution expressing no confidence in the office-bearer for which not less than three clear days, notice shall be given. A copy or gist of the requisition and of the representation, if any, received from the office bearer concerned shall also be sent to the members along with the notice for the special meeting of the board. "

4. When a show cause notice was received by the petitioner, it is bound to reply the same. According to the petitioner, one of the Director was disqualified and therefore, he will not be counted towards majority and accordingly 2/3 majority fall short of one member and seven directors have given their request. Therefore, the Registrar shall not call for a meeting for removing him from the Office.

5. Per contra, the learned counsel appearing for the respondents would submit that the Registrar has followed the provisions of Sub-rule 3 of Rule 62 of the Tamilnadu Co-operative Societies Act and has correctly communicated a copy of the requisition made by the other existing members to the petitioner. He could submit his explanation to the Registrar. Without waiting for the result, prematurely approached this Court as against the show-cause notice and hence, the show cause notice is not sustainable.

6. Considering the submissions made on either side, as per rule 62(3) of the Tamil Nadu Co-operative Societies Act, 1988, the Registrar had promptly communicated the request made by the majority of the Directors to the petitioner. The requisition fall short of majority. It is open to the petitioner to make his explanation to the Registrar who inturn will consider the same and take a decision as to whether to convene a meeting or not. It is well settled by various Judgments that a writ against a show cause notice which revolves around facts is not maintainable. Therefore, liberty is granted to the petitioner to approach the Registrar with his



objections, for the present. The Registrar shall consider the objections and take a decision considering the two third of majority to call for the meeting, in accordance with law.

7. With the above observations, the Writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

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To
The Deputy Registrar of Co-operative Societies,
Palace Road, Thakkalai,
Kalkulam Taluk, Kanyakumari District.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-90603[F] dated 01/10/2019

+1 CC to M/s.S. DEENADHAYALAN, Advocate (SR-90785[F] dated
01/10/2019)

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