



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P(MD)No.17070 of 2019

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N.N.628, Nattarasankottai,
Primary Agricultural Co-operative Credit Society,
Nattarasankottai,
Sivagangai District,
rep by its Secretary.

... Petitioner

Vs.

1.Registrar of Co-operative Societies,
N.V.Natarajan Maligai,
Kilpak,
Chennai-600 010.

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

3.The Deputy Registrar of Co-operative Societies,
Sivagangai Circle,
Sivagangai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorari, to call for the records from the file of the 3rd respondent herein issued in Na.Ka.391/2019 தொவ. Dated 26.03.2019 and to quash the same.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mrs.J.Padmavathi Devi

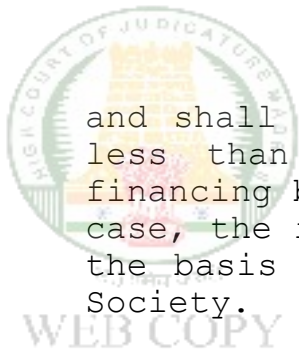
Special Government Pleader

ORDER

Heard Mr.G.Thalaimutharasu, learned counsel appearing for the petitioner and Mrs.J.Padmavathi Devi, learned Special Government Pleader appearing for the respondents.

2.Challenging the initiation of proceedings under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, (hereinafter referred to as 'the Act') issued by the third respondent, dated 26.03.2019, the petitioner is before this Court.

3.According to the petitioner, an enquiry under Section 81 of the Act, can be initiated only by the Registrar 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, whereas, in the present case, the impugned order was issued by the third respondent, only on the basis of the complaint given by the erstwhile employee of the Society.

4.It is contended by the learned counsel for the petitioner that on the basis of the complaint given by the said individual, proceedings were initiated and on three occasions, the said individual has given a complaint and the same has been declared as false complaint. Therefore, the initiation of the proceedings against the petitioner is illegal and without jurisdiction, as per Section 81 of the Act.

5.Even though a counter affidavit has been filed by the third respondent, there is no explanation as to the competency of the third respondent for initiating the proceedings under Section 81 of the Act, on the basis of the complaint given by a private individual. The impugned order does not refer to any of the ingredients of Section 81 of the Act, ie., to say that the Registrar 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 enquiry. Therefore, the initiation of proceedings itself is without basis.

6.The learned Special Government Pleader would contend that the proceedings were initiated, on the basis of a report submitted by the Field Officer, dated 31.01.2019.

7.Considering the aforesaid submissions, I do not find any reference in the report submitted by the Field Officer in the impugned order and the impugned order cannot be improved by filing an affidavit, as held by the Hon'ble Supreme Court. In such circumstances, the proceedings shall be initiated against the delinquent in accordance with law and the impugned order as such is not sustainable.

8.For the above reasons, the impugned order, dated 26.03.2019 passed by the third respondent in Na.Ka.391/2019 தொ.வ is set aside and the matter is remitted back to the third respondent for fresh consideration and to proceed further in accordance with law.



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9.In the result, this Writ Petition stands allowed. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

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

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

3.The Deputy Registrar of Co-operative Societies,
Sivagangai Circle,
Sivagangai.

+1 CC to Mr.G.THALAIMUTHARASU, Advocate (SR-95996[F] dated
05/11/2019)

+1 CC to SPL GP (SR-96345[F] dated 06/11/2019)

W.P (MD) No.17070 of 2019
04.11.2019

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MK (15.11.2019) 3P 6C