



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.12983 of 2014

and

M.P. (MD) No.2 of 2014 & W.M.P. (MD) No.5298 of 2017

and

W.P. (MD) No.12989 of 2014

and

M.P. (MD) Nos.1 & 2 of 2014 & W.M.P. (MD) No.5296 of 2017

and

W.P. (MD) No.13008 of 2014

and

M.P. (MD) No.1 of 2014 & W.M.P. (MD) No.5297 of 2017

S.Thiraviyakumar ... Petitioner in W.P. (MD) No.12983/2014
T.Murugan ... Petitioner in W.P. (MD) No.12989/2014
S.Sankaranarayanan ... Petitioner in W.P. (MD) No.13008/2014

vs.

1.The Registrar of Co-operative Societies

N.V.Natarajan Maaligai
170 Periyar EVR High Road
Kilpauk, Chennai-600 010

2.The Deputy Registrar of Co-operative Societies

Cheranmahadevi
Ambasamuthram Taluk
Tirunelveli District

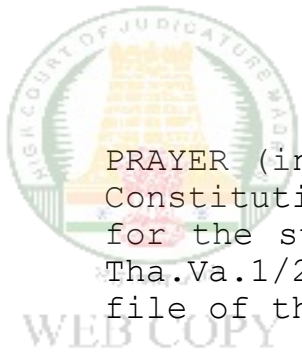
3.The Managing Director

Tirunelveli Central Co-operative Bank
Vannarpaettai, Tirunelveli
Tirunelveli District

4.The President

E.E.428, Donavur Primary Agricultural
Co-operative Credit Society
Donavur, Cheranmadevi
Ambasamuthram Taluk
Tirunelveli District

... Respondents in all W.Ps.



PRAYER (in all W.Ps): Writ petitions filed under Article 226 of the Constitution of India for issuance of writ of certiorari to call for the surcharge proceedings initiated upon the petitioners under Tha.Va.1/2013-14 (NaKa.5490/2013 SaPa) dated 03.04.2014, on the file of the 2nd respondent and to quash the same as illegal.

For Petitioner : Mr.K.R.Laxman
(in all W.Ps.)

For Respondents : Mr.K.Mu.Muthu
(in all W.Ps.) Additional Government Pleader for R1 to R3
Mr.D.Muruganandham
Additional Government Pleader for R4

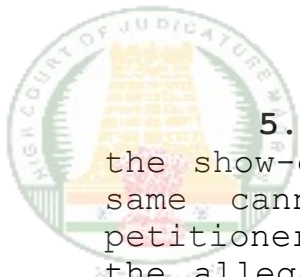
C O M M O N O R D E R

The notices issued under Section 87 of the Tamil Nadu Cooperative Societies Act (hereinafter, referred to as "the Act"), are under challenge in the present writ petitions.

2. The writ petitioners were the employees of the third respondent / Central Co-operative Bank. The writ petitioners were implicated in the surcharge proceedings pursuant to the reports submitted by the enquiry officer under Section 81 of the Act. The financial loss occurred to the Co-operative Bank was ascertained and consequently, the authority competent had initiated action under Section 87 of the Act. The impugned notices were issued to the writ petitioners directing them to submit their explanations / objections, within a period of fifteen days from the date of receipt of a copy of the notice.

3. As per Section 87 of the Act, an enquiry is to be conducted before passing the final orders of surcharge. The writ petitioners instead of submitting their explanations / objections in respect of the allegations set out in the impugned notices, moved the present writ petitions, challenging the impugned notices.

4. No writ proceeding can be entertained against a show-cause notice in a routine manner. The present show-cause notices were issued seeking explanations / objections from the writ petitioners. This apart, after conducting enquiry under Section 87 of the Act and after passing of the final orders, the writ petitioners have to approach the Special Co-operative Tribunal, constituted under Section 152 of the Act. The respective Principal District Judge is designated as the Presiding Officer for the Special Co-operative Tribunal and accordingly, the writ petitioners have to approach the competent Special Co-operative Tribunal for the purpose of challenging the final orders to be passed by the authority competent under Section 87 of the Act.



5. The present writ petitions have been filed challenging the show-cause notices issued under Section 87 of the Act and the same cannot be entertained. It is left open to the writ petitioners to submit their explanations / objections in respect of the allegations set out in the show-cause notices and participate in the process of enquiry and defend their case by establishing their innocence or otherwise. After passing of final orders by the authority competent under Section 87 of the Act, the writ petitioners have to approach the Special Co-operative Tribunal, under Section 152 of the Act. These are all the procedures contemplated under the Act, when adequate opportunities are available to the writ petitioners to establish their innocence or otherwise and when the statute provides the remedy, the writ petitions cannot be entertained in respect of the show-cause notices.

6. In view of the above, the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Records)

// True Copy //

Sub Assistant Registrar(CS)

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To:

- 1.The Registrar of Co-operative Societies,
N.V.Natarajan Maaligai,
170 Periyar EVR High Road,
Kilpauk, Chennai-600 010.
- 2.The Deputy Registrar of Co-operative Societies,
Cheranmahadevi,
Ambasamuthram Taluk,
Tirunelveli District.
- 3.The Managing Director,
Tirunelveli Central Co-operative Bank,
Vannarpaettai, Tirunelveli,
Tirunelveli District.



4.The President,
E.E.428, Donavur Primary Agricultural
Co-operative Credit Society,
Donavur, Cheranmadevi,
Ambasamuthram Taluk,
Tirunelveli District.

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