



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.12294 of 2015

and

M.P. (MD) .No.1 of 2015

K.C.Ravichandran

... Petitioner

-Vs-

The Deputy Registrar of Co-operative
Societies, Kancheepuram.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the impugned order of the respondent in surcharge proceedings No.2/2015/A3 dated 3.6.2015, quash the same .

For Petitioner : Mr.P.Sujai Krishna

For Respondent : Mr.S.Dhayalan
Government Advocate

ORDER

The sur-charge notice issued under Section 87(1) of the Tamil Nadu Co-operative Societies Act, 1983 is under challenge in the present writ petition.

2.The impugned surcharge notice dated 03.06.2015 states that the writ petitioner has to submit his written explanation within a period of 15 days from the date of receipt of the show cause notice. However, the writ petitioner instead of submitting his explanation / objections with reference to the allegations set out in the sur-charge notice has chosen to file the present writ petition. Based on the statutory enquiry report under Section 81 of Tamil Nadu Co-operative Societies Act threefold actions are permissible. If any irregularity, illegality or misappropriation of the funds of the society or financial loss are identified in a co-operative society, then, departmental disciplinary proceedings can be initiated against the employee. Surcharge proceedings can be initiated under Section 87 of the Act and also criminal prosecution can be commenced by registering the complaint before the Commercial Crime Investigation Wing.

3.The present writ petition has been filed challenging the surcharge notice issued under Section 87 (1) of the Tamil Nadu Co-operative Societies Act. Once a surcharge notice is issued, the person against whom such notice is issued should submit his



explanation / objections for the purpose of defending his case. Thereafter, an enquiry is to be conducted by the competent authority and a final order is to be passed under Section 87 of the Act. After passing of the final order under Section 87 of the Act by the competent authority, the aggrieved person shall approach the Special Tribunal for Co-operative Cases under Section 152 of the Tamil Nadu Co-operative Societies Act. The Principal District Judge of the respective Districts as designated for Special Tribunal for Co-operative Cases after passing of the final order under Section 87 of the Act, the person aggrieved by the said order is at liberty to approach the Special Tribunal for Co-operative Cases constituted under Section 152 of the Act. Only after redressing the remedy provided under the Act, the writ petitioner can approach the High Court under Article 227 of the Constitution of India. The Special Tribunal is constituted by the Principal District Judge and it is a judicial forum. Thus, all the legal grounds as well as the facts and other circumstances can be adjudicated by the aggrieved persons before the Special Tribunal for Co-operative Cases / Principal District Judge having jurisdiction and therefore, the present writ petition filed challenging the notice issued under Section 87(1) of the Co-operative Societies Act, cannot be entertained.

4. Under these circumstances the writ petitioner is at liberty to submit his explanation / objections in respect of Section 87(1) notice and after participating in the enquiry to be conducted by the competent authorities, a final order can be passed by the competent authority under the Act and thereafter, the writ petitioner shall approach the Special Tribunal, if he is aggrieved.

5. With these observations, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar(CS)

sjj/am

To

The Deputy Registrar of Co-operative Societies, Kancheepuram.

+1CC TO MR.VEERA ASSO., Advocate Sr. No.74684

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 74761

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