



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD) No.21522 of 2019

and

W.M.P (MD) No.18250 of 2019

WEB COPY

- 1.B.Murugavel
- 2.S.K.Thangam
- 3.K.Sermalai
- 4.M.Jothi
- 5.R.Sekar
- 6.V.Latha Mahesh
- 7.M.Petchiammal
- 8.P.Sermalai

... Petitioners

Vs.

- 1.The State of Tamil Nadu,
Rep.by its Principal Secretary to the Government,
Department of Co-operation,
Food and Consumer Protection,
Secretariat, Chennai -9.
- 2.The Registrar of Co-operative Societies,
O/o.The Registrar of Co-operative Societies,
170, EVR High Road,
Chennai - 600 010.
- 3.The Joint Registrar of Co-operative Societies,
O/o.The Joint Registrar of Co-operative Societies,
Theni, Theni District - 625 531.
- 4.The Deputy Registrar of Co-operative Societies,
O/o.The Deputy Registrar of Co-operative Societies,
Thenkarai, Periyakulam,
Theni District - 625 601.
- 5.The Secretary,
DD249, Kadamalaikundu Primary
Agricultural Co-operative Credit Society,
Kadamalaikundu, Aundipatti Taluk,
Theni District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus, to direct the respondents No.3 to 5 to provide co-operation to the President-in-

<https://hcservices.ecourts.gov.in/hcservices/>



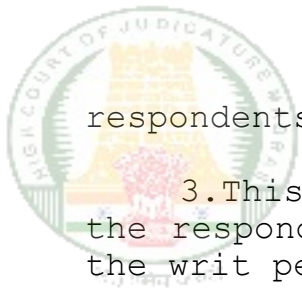
charge of the DD249, Kadamalaikundu Primary Agricultural Co-operative Credit Society duly authorized by the petitioners to administer the petitioners' Society and for operation of the saving bank account and current account in Madurai District Central Co-operative Bank, Mayiladumparai, Theni District within the time period stipulated by this Court.

For Petitioners : Mr.T.Lajapathi Roy
For Respondents : Mrs.J.Padmavathi Devi,
Special Government Pleader.

O R D E R

This Wit Petition has been filed to direct the third, fourth and fifth respondents to provide co-operation to the President-in-charge of the DD249, Kadamalaikundu Primary Agricultural Co-operative Credit Society duly authorized by the petitioners to administer the petitioners' Society and for operation of the saving bank account and current account in Madurai District Central Co-operative Bank, Mayiladumparai, Theni District.

2.The Board of Management elected by the members of Kadamalaikundu Primarily Agricultural Co-operative Credit Society underwent some turbulence because of misunderstanding between the elected members. On 04.07.2019 a request for meeting to bring no confidence motion against the President was made by the board members. Pursuant to the same, a special meeting of the board members was conducted as per Section 62 of the Tamil Nadu Co-operative Societies Rules, 1988. Since majority of the members voted against the President, he was removed from the Office and Vice President was given in charge of the Presidentship. Thereafter, it appears that the removed President and the President-in-charge have lodged a criminal complaint against each other and in this process the functions of the society came to a standstill. A target was fixed by the financing bank to disburse a sum of Rs.250 lakhs towards crop loan, Rs.250 lakhs towards jewel loan and Rs.8 lakhs towards midterm loan. But, due to the internal fighting between the board members, the target could not be achieved. Therefore, on the report of the Secretary of the society and also on the basis of the report submitted by the Inspector of Police dated 21.09.2019, the Joint Registrar issued a show cause notice to the board as to why the society cannot be superseded under Section 88 of the Tamil Nadu Co-operative Societies Act (herein after referred to as 'the Act'). The primary consideration under Section 88 of the Act was that the negligence of the board members in performing their duties and there is a standstill due to quarrel between the board members. Therefore, he called for explanation from them by his notice dated 28.09.2019. However, the Vice President (president in charge) moved this Court on 25.09.2019, challenging the show cause notice issued by the



respondents.

3.This Court, as an interim measure, on 04.10.2019, directed the respondents not to proceed with any action till the disposal of the writ petition.

4.According to the learned Special Government Pleader, even before the order could be conveyed, vide proceedings dated 05.10.2019, the board was superseded. When the matter was seized of by the Court, subsequent action with or without knowledge has no force or in other words, it is not enforceable.

5.In view of the matter, the subsequent order superseding the society cannot be enforced, it shall be continued from that stage. The respondents in order to comply with principles of natural justice, has to re-do the very same exercise by affording opportunity to all Board members. Hence, the respondents are directed to withdraw the order. Further, since the respondents have complied with the provisions of Section 88 of the Act by issuing a show cause notice calling for objections as to why the board should not be superseded, the Board members have to submit their explanation and participate in the meeting for enquiry to be conducted by the Joint Registrar. Without complying with the procedure, the petitioner cannot rush to this Court on apprehension.

6.Considering the facts and circumstances, the second and third respondents are directed to proceed from the stage of issuance of show cause notice dated 28.08.2019. They shall give time to the elected board members for submitting their objections. It is also mandatory that as per sub Section 6 of Section 88 of the Act, the Registrar shall consult with the financing bank before taking a decision. The procedure laid down under Section 88 of the Act should be strictly complied with. Thereafter, by giving opportunity, they shall conduct a personal enquiry on the issue and take a decision on the issue of supersession of the board within a period of two months from the date of receipt of a copy of this order.

7.With these observations and directions this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)



TO

- 1.The Principal Secretary to the Government,
Department of Co-operation,
Food and Consumer Protection,
Secretariat, Chennai -9.
 - 2.The Registrar of Co-operative Societies,
O/o.The Registrar of Co-operative Societies,
170, EVR High Road,
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 - 5.The Secretary,
DD249, Kadamalaikundu Primary
Agricultural Co-operative Credit Society,
Kadamalaikundu, Aundipatti Taluk,
Theni District.
- +1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-92358[F] dated
17/10/2019)

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and
W.M.P (MD) Nos.18250 of 2019

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KK/SAR/04.11.2019/4P-7C/