

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 09.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM**W.P. (MD) No. 8296 of 2014****and****M.P (MD) No. 1 of 2014**

WEB COPY

Dharmaraj

... Petitioner

Vs.

The Deputy Registrar of Co-operative Societies,
No.20, Kamatchiamman Kovil Street,
Aranthangi Post & Taluk,
Pudukkottai District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari and quash the proceedings of the respondent in Na.Ka.No.3087/2013/A3 dated 09.12.2013 as arbitrary and illegal.

For Petitioner : Mr.K.Balasundharam

For Respondent : Mr.M.Jeyakumar

Additional Government Pleader

ORDER

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

2.The writ petitioner was appointed as Salesman at Ponbethi Primary Agricultural Co-operative Credit Society and promoted to the post of Clerk. Based on the enquiry conducted under Section 81 of the Act and based on the enquiry report submitted, the surcharge proceedings were initiated against the writ petitioner under Section 87(1) of the Tamil Nadu Co-operative Societies Act. The competent authority issued notice under Section 87(1) of the Act directing the writ petitioner to submit his explanations/objections in respect of the allegations set out in the notice, within 15 days from the date of receipt of the notice. Instead of submitting the explanation, the writ petitioner has chosen to file the present writ petition.

3. The procedures to be followed for surcharge proceedings under the provisions of the Tamil Nadu Co-operative Societies Act is that based on the materials available on record, the competent authority has to issue a notice under Section 87(1) of the Act. On receipt of notice, a person who is received the notice is entitled to submit his explanations/objections and the documents if any, to the authorities concerned and thereafter, an enquiry is to be conducted and after conducting an enquiry, final order in the



surcharge proceedings are to be passed by the competent authorities under the provisions of the act. If any final order is passed by the competent authorities, an aggrieved person may preferred further appeal to the Special Co-operative Tribunal constituted under Section 152 of the Tamil Nadu Co-operative Societies Act. The respective Principal District Judges are designated as Special Co-operative Tribunal to deal with the appeal filed under Section 152 of the Act.

4. Thus, various remedial mechanisms are provided under the Act, the High Court cannot entertain the writ petition filed challenging the notice issued under Section 87(1) of the Act. Even the legal grounds raised in the present writ petition can be raised before the competent authority under the Co-operative Societies Act in view of the fact that such authorities are exercising the quasi judicial power and they are empower to adjudicate the merits as well as the legal ground. This being the procedures to be followed, the present writ petition filed challenging the notice issued under Section 87(1) of the Act cannot be entertained. The writ petitioner is at liberty to submit his explanation to the competent authorities and after enquiry and if any final order is passed and thereafter, the writ petitioner is aggrieved, he can approach the Special Tribunal for Co-operative cases under Section 152 of the Act.

5. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The Deputy Registrar of Co-operative Societies,
No.20, Kamatchiamman Kovil Street,
Aranthangi Post & Taluk,
Pudukkottai District.

+1 CC to Mr.K.BAALA SUNDHARAM, Advocate (SR-81424[F] dated 13/08/2019)

+1 CC to SPL GP (SR-81481[F] dated 13/08/2019)

W.P. (MD) No. 8296 of 2014

09.08.2019