



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : **21.10.2019**
CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P. (MD)No.21690 of 2019

and

W.M.P. (MD)Nos.18408 and 18409 of 2019

M.Ramachandran

: Petitioner

Vs.

1. The Regional Joint Registrar of Co-operative Societies,
Pudukottai Region,
Pudukottai.

2. The Deputy Registrar of Co-operative Societies,
O/o. Deputy Registrar of Co-operative Societies,
Aranthangi Circle,
Pudukottai District.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned charge made in Na.Ka.No.575/2019/A3, dated 12.04.2019 as well as the consequential summon made in Na.Ka.No.575/2019/A3(1), dated 12.09.2019 issued by the second respondent insofar as the petitioner is concerned and quash the same.

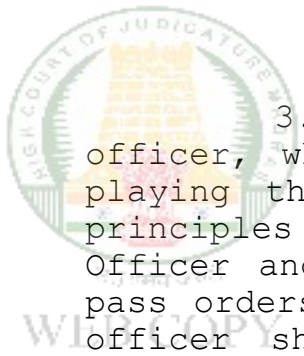
For Petitioner : Mr.D.Sadiq Raja

For Respondents : Mr.M.Rajarajan,
Government Advocate

ORDER

Challenge to this Writ Petition is the framing of charges made by the second respondent as well as the consequential summons dated 12.09.2019.

2. According to the petitioner, the gravamen of the charges is wilful negligence. Undisputedly, the petitioner has issued public auction notice in the newspapers thrice, which shows that he was not lethargic nor failed to perform his duties. Once it is *prima facie* revealed that he was functioning promptly, the charge of wilful negligence ought not to have been attributed against him. Therefore, framing of charges is erroneous.



3. The second limb of the argument is that the very same officer, who framed charges, if, conducts an enquiry, he will be playing the role of Prosecutor and Judge and it is opposed to principles of natural justice. If he plays the role of a Presenting Officer and an Enquiry Officer, then he loses his jurisdiction to pass orders. In that event, to maintain fair play, an independent officer should be appointed. Therefore, on these grounds, the charges framed on 12.04.2019 are sought to be quashed.

4. On the other hand, the learned Government Advocate appearing for the respondents brought to the notice of this Court the proceedings of the second respondent dated 12.09.2019. A perusal of that shows that consequent upon the summons, the petitioner appeared before the second respondent and an enquiry was conducted on 09.07.2019 and he was given an opportunity to submit his explanation and thereafter, in order to give an opportunity of oral enquiry, he was asked to appear before the authority on 04.10.2019 along with witnesses and documents. He appeared on that date and simultaneously, approached this Court and sought for quashing of the charges and the summons dated 12.09.2019.

5. I have heard the submissions of both sides.

6. The issue as to whether the charges framed for certain dereliction of duty are correct or not, has to be decided only during the course of enquiry. Whether there is wilful negligence or not?, is a question of fact. This Court cannot conduct a roving enquiry as to the factum of the charges framed. It is always open to the delinquent to appear before the Enquiry Officer and prove his innocence by producing documents. Even if he fails, there is an avenue of appeal provided under the relevant Act and he can redress his grievances through the appellate authority.

7. Insofar as the question of jurisdiction is concerned, Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, clearly confers power on the Registrar or any other Officer appointed to summon, enquire and peruse the documents, as provided under the Civil Procedure Code. Therefore, the second respondent herein, who is empowered under Section 87 to conduct enquiry in a full-fledged manner, cannot be said to perform his duties without jurisdiction. When an enquiry is conducted, it is always open to the petitioner to defend himself effectively and prove his innocence. He cannot apprehend that the officer will be biased in favour of the department and it will be decided against him. In fact, the proceedings dated 12.09.2019 shows that he was given an opportunity to submit his objections and also he was given an opportunity for personal enquiry. He was also permitted to produce witnesses on his side to let in evidence along with documents and in fact, he appeared on 04.10.2019 before the authority and requested them to consider the evidence given by him as evidence before the authority.



In that event, I do not think that opportunity of hearing is denied and there is any element of bias in this case.

8. Further, from the perusal of the record of proceedings, it appears that the petitioner has approached this Court on 04.10.2019 and he has not produced the witnesses yet.

9. Considering the facts and circumstances of the case, in order to give an opportunity to the petitioner, the respondents are directed to accommodate the petitioner when he produces witnesses on his side to disprove the charges. The petitioner is directed to appear before the second respondent on 31.10.2019 along with his witnesses and documentary evidence. The second respondent is directed to proceed with the enquiry and complete the proceedings, within an extended period of one month from 31.10.2019.

10. The Writ Petition stands disposed of with the above observation. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Regional Joint Registrar of Co-operative Societies,
Pudukottai Region,
Pudukottai.

2.The Deputy Registrar of Co-operative Societies,
O/o. Deputy Registrar of Co-operative Societies,
Aranthangi Circle,
Pudukottai District.

+1 CC to SPL GP (SR-93543[F] dated 22/10/2019)

+1 CC to Mr.D.SADIQRAJA, Advocate (SR-93677[F] dated 22/10/2019)

Order made in
W.P. (MD)No.21690 of 2019
Dated: 21.10.2019

sml

MK (25.10.2019) 3P 5C