



WEB COPY

W.P(MD)No.22079 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

W.P (MD)No.22079 of 2019

and

WMP (MD) Nos.18847, 18850 & 18852 of 2019

A.Hins Beaula Anandhi

.. Petitioner

Vs.

1.The District Registrar of Cooperative Society,
Madurai District,
Madurai.

2.The Secretary,
M.M.3125 Melut Panchayat Union
Employees and Thrift and Credit Society Ltd.,
Melur, Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records relating to the impugned order passed by the 1st respondent dated 15.10.2019 under Section 62(4) of the Tamil Nadu Cooperative Societies Act and Rules 1988 and quash the same and consequently direct the respondents to defer the no confidence motion special meeting.

For Petitioner : Mr.S.Krishnan

For R1 : Mr.Rajarajan
Government Advocate

For R2 : Mr.M.Karuppasamy

ORDER

By consent, the writ petition is taken up for final disposal at the stage of admission itself.

2.The petitioner is the President of M.M.3125, Panchayat Union Employees and Thrift and Credit Society Ltd., Melur. Totally 11 members were elected to the Board, out of which, 8 members have sent a request to the first respondent for bringing no confidence motion against the petitioner. The Registrar, has communicated the said request to the petitioner and called for explanation. The petitioner submitted her explanation on 24.07.2019, which was received by the first respondent on 29.07.2019. Thereafter, the Registrar, has called for a meeting as per Rule 62(4) of the Tamil

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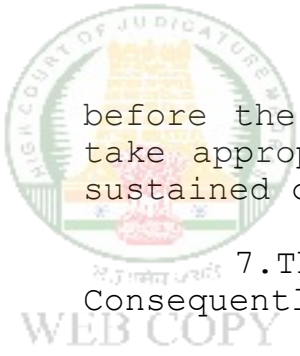
Nadu Cooperative Societies Rules, 1988 on 19.10.2019 by his communication dated 15.10.2019. The said notice is under challenge in this writ petition.

3. Admittedly, as per Rule 62(2) of the Tamil Nadu Cooperative Societies Rules, 1988, 2/3rd of the existing members have signed and made a request to convene a special meeting of the Board. As per sub Rule (3) of Rule 62, letter was forwarded and explanation was called for from the President. Now that, by the impugned notice dated 15.10.2019, meeting is scheduled to be convened on 19.10.2019.

4. The contention of the learned counsel for the petitioner that when the statute provides 30 days time for convening special meeting of the Board from the date of requisition, the conduct of the meeting after three months is illegal, is concerned, time limit of 30 days in the present context is only directory and it is not mandatory. One cannot presume that if a meeting is convened within 30 days from the date of receipt of requisition, the no confidence motion automatically lapses and another motion has to be initiated. If that be so, purpose of the statutory provision would be subverted by delaying the meeting. The delay will not prejudice the delinquent, on the other hand, it will prejudice the applicants moving the motion. In as much as it does not affect the rights of the officer sought to be removed, or causes penal consequences, it shall be construed that the conduct of meeting within 30 days is only directory and not mandatory. Moreover, the impugned order is only a communication calling for the attendance of the officer against whom no confidence motion is moved.

5. The learned counsel appearing for the petitioner has relied on a judgment of a Division Bench of this Court in the case of **R. Sambath Chandra Vs. The Registrar of Cooperative Societies**, reported in **2017 - 1 - Writ L.R.161**. In the above said case, an enquiry was conducted and punishment was ordered without furnishing a copy of the Enquiry Report and proceedings were initiated at belated stage. Hence, this Court found that there is violation of principles of natural justice. Whereas, in the present case, proceedings were at the notice stage and notice was issued as per mandatory requirements of the statutory provisions of the Act and therefore, it cannot be construed as violation of principles of natural justice or it shall be construed as belated and illegal. Hence, the above mentioned judgment cannot be not applied to the facts of the present case.

6. In this case, as per the provisions, for moving no confidence motion against the President, meeting has to be convened by the Registrar. When notice is issued as per the statutory provision, this Court cannot delve into the factual aspects of the matter and interfere into the proceedings. The contention of the petitioner that two members of the Board have already been disqualified as per the operation of bye laws, has to be raised



before the Registrar and the Registrar shall consider the same and take appropriate action. In any event, the writ petition cannot be sustained on these aspects.

7.The writ petition is dismissed accordingly. No costs. Consequently, WMP(MD)Nos.18847, 18850 & 18852 of 2019 are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The District Registrar of Cooperative Society,
Madurai District,
Madurai.

2.The Secretary,
M.M.3125 Melut Panchayat Union
Employees and Thrift and Credit Society Ltd.,
Melur, Madurai District.

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