



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.(MD)No.2923 of 2011

and

M.P.(MD)No.2 of 2011

WEB COPY

P.Marichamy

... Petitioner

-Vs-

1.The Deputy Registrar of Co-operative Societies,
Srivilliputhur, Virudhunagar District.

2.The Section 81 Enquiry Officer,
R.A.18, Thiruvengadapuram Primary
Agricultural Co-operative Society,
Thiruvengadapuram,
Office of the Deputy Registrar of
Co-operative Society,
Srivilliputhur.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned charges dated 19.02.2011 issued by the second respondent communicated in the summons (described as evidence) dated 19.02.2011 issued by the second respondent and quash the same and direct the respondents not to proceed further against the petitioner in this regard.

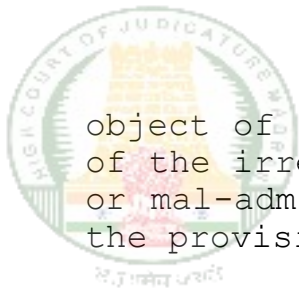
For Petitioner : Mr.I.Sudhakaran
For Respondents : Mr.C.Ramar,
Additional Government Pleader.

ORDER

The notice issued to the writ petitioner, summoning him to appear before the enquiry officer appointed to conduct an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, (hereinafter referred as 'the Act') is under challenge in the present Writ Petition.

2.The impugned summon itself was issued under Section 81 of the Act by the enquiry officer. The learned counsel for the writ petitioner made a submission that in respect of the same allegations, already an enquiry was conducted and therefore, the impugned in the present Writ Petition ought not to have been issued by the respondents, calling upon the writ petitioner to submit his documents or explanations or depositions once again.

3.Very interpretation provided by the learned counsel for the writ petitioner is unacceptable on the ground that very purpose and



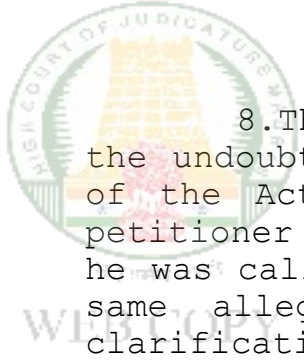
object of Section 81 of the Act is to conduct an enquiry in respect of the irregularities, illegalities, financial losses, mismanagement or mal-administration of the Co-operative Society registered under the provisions of the Act.

4. Section 81 of the Act contemplates that the Registrar may, of his own motion and shall, on the application of a majority of the board or of not less than one-third of the members or on the request of the financing bank or of the District Collector, hold an inquiry, or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society or any alleged misappropriation, fraudulent retention of any money or property, breach of trust, corrupt practice or mismanagement in relation to that society or into any particular aspect of the working of that society.

5. Thus, statutory enquiry can be ordered by the competent authority on more than one occasion, if the authority is of the opinion that earlier reports submitted by the enquiry officer is not statutory or insufficient or inadequate. There is no limitation for ordering statutory enquiry, as the whole object of the act is to ensure that the Co-operative societies are functioning in accordance with the provisions of Tamil Nadu Co-operative Societies Acts and Rules.

6. Under these circumstances, the writ petitioner, who is none other than the employee of the Co-operative Society may not say that second enquiry is impermissible, even in respect of the same allegations, if there is no discrepancy or improper enquiry or sufficient findings are not provided by the enquiry officer earlier appointed, then the competent authority is empowered to order for another enquiry under Section 81 of the Act to cull out the truth behind the incidents, if any.

7. Order of enquiry under Section 81 of the Act would not provide any cause of action for the writ petitioner to file this writ petition and the writ petitioner cannot be considered as an aggrieved person, in view of the fact that he was just called upon to submit his explanation or information within his knowledge to the enquiry officer. Such process would not provide any cause of action, so as to challenge the very summons under Article 226 of the Constitution of India. The writ petitioner cannot move the writ petition on merits and also all those merits and demerits could be considered by the enquiry officer under Section 81 of the Act and the High Court cannot appreciate the facts and circumstances narrated in the present writ petition and such an exercise is impermissible under Article 226 of the Constitution of India. Such disputes can be adjudicated only with reference to the original documents available in the society and by way of evidence or depositions by the persons concerned.



8. This being the principles to be followed, this Court is of the undoubted opinion that issuance of the summon under Section 81 of the Act would not provide any cause of action for the writ petitioner to challenge the summon on the ground that earlier also he was called upon to submit an explanation in respect of the very same allegation. The same can be issued even for further clarification or to obtain further statements or to cull out the truth in respect of the allegations raised regarding the affairs of the co-operative society.

9. Under these circumstances, the writ petitioner has miserably failed to establish even a semblance of legal right, so as to consider the issues raised in the present Writ Petition and accordingly, this writ petitioner is directed to co-operate for the early disposal of the enquiry proceedings by the enquiry officer to find out the truth behind the allegations raised in respect of the affairs of co-operative society.

10. Accordingly, this writ petition is devoid of merits and the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar (CS)

To

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Srivilliputhur, Virudhunagar District.

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+1 CC to M/s. I. SUTHAKARAN, Advocate SR-66764.

W.P (MD) No. 2923 of 2011

CS: (11/06/2019) 3P 4C