

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 17.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.28998 of 2005
and
W.P.M.P.No.31695 of 2005

K.M.Manivel Rajan

... Petitioner

vs.

1.The Deputy Registrar of
Cooperative Societies,
63, Thiruvengkatasamy Street,
Erode - 638 001.

2.The Inspector of Police,
Commercial Crime Investigation Wing,
(C.I.D), Erode Unit,
Crime No.6 of 2005,
Erode District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Declaration declaring that the First Information Report in Crime No.6 of 2005 dated 01.07.2005 pending on the file of the 2nd respondent is violative of the provisions of Sections 81, 161, 162 and 164 of the Tamil Nadu Co-operative Societies Act, 1983 and violative of Entry 43 of List I, Entry 32 of List II and Entry I of List III of the Constitution of India, as arbitrary, null and void and without jurisdiction so far as the petitioner is concerned.

For Petitioner

सत्यमेव जयते
: Mr.Durai Vaiyapurai,
for Mr.N.Manokaran

For Respondents 1 & 2:

Ms.T.Girija,
Addl. Government Pleader

O R D E R

The present writ petition has been filed for a writ of declaration to declare the First Information Report in Crime No.6 of 2005 dated 01.07.2005 pending on the file of the 2nd respondent as violative of the provisions of Sections 81, 161, 162 and 164 of the Tamil Nadu Co-operative Societies Act, 1983 and violative of Entry 43 of List I, Entry 32 of List II and Entry I of List III of the Constitution of India, as arbitrary, null and void and without jurisdiction so far as the petitioner is concerned.

2. The issue in relation to the registration of a criminal case in respect of an employee of the Cooperative Societies was settled by this Court in the case of V.S.Ramasubramaniam Vs.The State of Tamil Nadu, rep. by its Secretary to Govt., Food, Co-operation Department, reported in (2004) 2 LW 776. Relevant paragraphs of the said decision are extracted hereunder:

"All the above Writ Petitions are related to Madurai Urban Co-operative Bank Limited (hereinafter called 'the Bank') and as such they were clubbed together and disposed of by this Common Order.

8. The Ex. President has filed W.P. No. 20028 of 2001 challenging the proceedings dated 8-10-2001, by which an enquiry has been ordered under Section 81 of the Tamil Nadu Co-operative Societies Act (hereinafter referred to as 'the Act') as to the affairs relating to mismanagement of the bank and the said enquiry has been directed to be held by one Thiru Alagiriswamy, Registrar of Co-operative Societies in the Office of the Registrar. W.P. No. 15079 of 2002 has been filed by the Ex. President for the issuance of a Writ of Certiorari, challenging the proceedings of the Registrar dated 15-4-2002, in and by which, a discreet enquiry was directed to be made by his sub-ordinates with reference to the advancement of loans to a tune of Rs. 2 lakhs and above from 1-12-1996 onwards by the Bank and to submit a report.

9. Writ Petition Nos. 19046 and 22828 of 2003 have been filed by the Ex. President as well as the Ex. Director, challenging the proceedings of the Joint Registrar of Co-operative Societies, Madurai Region dated 27-5-2003, in and by which, the Ex. President and Ex. Director were called upon to show cause by virtue of the provisions contained in Section 36 of the Act for the purpose of permanent disqualification.

10. Writ Petition No. 28262 of 2003 has been filed by the Ex. President, challenging the proceedings of the Additional Registrar of Co-operative Societies, Chennai, dated 29-7-2003 ordering an inspection under Section 82 of the Act.

11. Writ Petition Nos. W.P. Nos. 24257, 24894, 25156, 25206, 25258, 26347, 26348,

26349, 26350, and 26968 of 2003 have been filed by the Ex. President, Ex. Director, Ex. Secretary, Ex. Vice President and the the Ex. Employees of the Bank, challenging the F.I.R. in Cr. No. 9 of 2003 dated 22-8-2003 on the file of the Inspector of Police, CCIW-CID, Madurai.

15. All the above said reliefs claimed in the different Writ Petitions are as a sequel to allegations of mismanagement and other alleged corrupt practices of the Ex. President, Ex. Vice President, Ex. Director, Ex. Secretary and the Ex. Employees of the Bank in the course of their functioning as such in their different Capacities during the period between 1-11-1996 and 25- 5-2001.

22. After the proceedings dated 15-4-2002, the concerned officials who were directed to make certain enquiries as regards the loans advanced by the Bank to the tune of Rs. 2 lakhs and above, the team of officials have completed their task and filed the report dated 31-10-2002. It is the said report which has triggered further probe into the various aspects relating to allegation of corrupt practice and mismanagement in respect of the affairs of the bank by the Ex. Office Bearers as well as Ex. Employees of the bank. In fact, as a sequel to the said report dated 31-10-2002, it is stated that while on the one hand, the F.I.R. came to be registered on 22-8-2003 in Cr. No. 9 of 2003 on the file of the Inspector of Police, CCIW-CID, Madurai, a regular enquiry has also been in the anvil to be held under Section 81 of the Act apart from inspection ordered under Section 82 of the Act. The Ex. Office Bearers and the Employees have therefore come forward with the present Writ Petitions, seeking to thwart the initiation of any enquiry under Section 81 of the Act and also the quashing of the FIR itself for various grounds urged in their respective Writ Petitions."

3. In view of the legal principles settled, this Court is of the view that, the Writ petitioner has to defend his case before the competent Court of Law by availing the opportunities to be provided.

4. With these observations, the Writ Petition stands dismissed. No Costs. Consequently, connected W.P.M.P.No.31695 of 2005 is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

(aeb/jas)

To:

1.The Deputy Registrar of
Cooperative Societies,
63, Thiruvengkatasamy Street,
Erode - 638 001.

2.The Inspector of Police,
Commercial Crime Investigation Wing,
(C.I.D), Erode Unit,
Crime No.6 of 2005,
Erode District.

+1cc to Mr.N.Manokaran , Advocate SR.No. 24920

W.P.No.28998 of 2005

and

W.P.M.P.No.31695 of 2005

A.SK(03/08/2020)



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