

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2020

CORAM:

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

W.P.No.10855 of 2020 &
W.M.P.Nos.13221 & 13224 of 2020

K.Amaresan

.. Petitioner

-Vs-

The Deputy Registrar of
Co-operative Societies,
KPK Complex,
No.20, 4th Cross
Co-op Colony, Krishnagiri.

.. Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the entire records of the impugned surcharge proceeding summon issued by the first respondent in Surcharge Proceeding No.02/2020/Sa.Pa.1, dated 20.07.2020 and quash the same and thereby direct the respondent to furnish the petitioner the full report of Section 81 enquiry along with copies of relied on documents, the genesis of the impugned surcharge proceedings, as sought by the petitioner in his representations dated 13.04.2020 and 27.07.2020 before proceeding with any surcharge proceedings against the petitioner.

For Petitioner : Mr.Jeevagiridharan

For Respondent : Mr.R.Bala Ramesh
Special Government Pleader

ORDER

This Writ Petition has been filed challenging the Surcharge Proceedings initiated by the first respondent against the petitioner pursuant to an enquiry conducted under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 [In short "the Act"] and a report submitted by the Enquiry Officer on 21.08.2019.

2. The petitioner was working as an Assistant Secretary in Puliampatti Primary Agricultural Co-operative Credit Society. An Enquiry was initiated under Section 81 of the Act

on the affairs of the said Bank for the period from 01.04.2013 to 31.03.2018. The petitioner was also issued with summons and he also attended the enquiry and his submission was recorded by the Enquiry Officer.

3. The grievance of the petitioner is that the respondent has issued a Surcharge Proceedings dated 10.03.2020 under Section 87 of the Act against the petitioner and others on the ground of misappropriation of funds and this Surcharge notice was issued even without furnishing the Enquiry Report, which was relied upon for the purpose of initiating the Proceedings. According to the petitioner, he will not be able to effectively defend himself in the proceedings, if he is not furnished with the Enquiry Report and the documents relied upon in the Enquiry Report .

4. Mr.R.Bala Ramesh, learned Special Government Pleader appearing on behalf of the respondent submitted that the petitioner had already been informed to collect the Enquiry Report and whatever documents are required in order to defend himself in the proceedings initiated under Section 87 of the Act. In order to substantiate the submission, the learned Special Government Pleader relied upon the letter issued by the respondent on 29.06.2020. The learned Special Government Pleader further submitted that this letter was received and acknowledged by the petitioner on 25.07.2020.

5. The learned Special Government Pleader further submitted that by proceedings dated 18.08.2020, the respondent has once again informed the petitioner to collect the Enquiry Report and the necessary documents by going over to the Office of the respondent. In spite of this communication, the petitioner is not coming the Office of the respondent and collecting necessary documents. Therefore, the petitioner cannot make any complaint against the respondent on the ground of non-furnishing of the Enquiry Report and other documents.

6. The learned counsel for the petitioner submitted that in view of the specific stand taken by the respondent, the petitioner will go over to the Office of the respondent and collect the Enquiry Report and all other documents that are necessary for the petitioner to defend himself under Section 87 proceedings. The learned counsel submitted that necessary direction can be issued to the respondent in this regard.

7. Taking into consideration the facts and circumstances of the case and also recording the submissions made by the learned Special Government Pleader and on perusal of the documents, this Court is of the considered view that the grievance expressed by the petitioner can be redressed by

issuing the following directions:-
<https://hcservices.courts.gov.in/hcservices/>

The petitioner is directed to go over to the Office of the respondent within a period of two weeks from the date of receipt of a copy of this order and seek for copy of the Enquiry Report and other necessary documents. The respondent shall furnish those documents to the petitioner to enable the petitioner to effectively defend himself under Section 87 Proceedings initiated against him. The respondent is further directed to continue with the Section 87 Proceedings, only after the petitioner receives the necessary documents and he is given an opportunity to put-forth his defense.

8. This Writ Petition is disposed of accordingly. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

r n s

To

The Deputy Registrar of
Co-operative Societies,
KPK Complex,
No.20, 4th Cross
Co-op Colony, Krishnagiri.

W.P.No.10855 of 2020 &
W.M.P.Nos.13221 & 13224 of 2020

SSV(CO)
GMY(21/09/2020)

WEB COPY