

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :28.09.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

WP No.13353 of 2020 and
WMP No.16493 of 2020

K.Aruchamy

.... Petitioner

Vs.

1. The Registrar of Co-operative Societies (Housing),
48, Ritherdon Road,
Vepery, Chennai 600 007.
 2. The Regional Deputy Registrar (Housing),
Coimbatore Region, Chintamani Complex,
North Coimbatore, Metupalayam Road,
Coimbatore.
 3. The Secretary,
Ne.Ke.No.1704, M.G.R Industrial Workers,
Co-operative Housing Society,
Coimbatore.
-Respondents

Prayer:- Writ petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 3 to cancel the Sec.81 enquiry pursuant to 2nd respondents proceedings Na.Ka.1558/2019/Na.Sa.dated 01.02.2020 as it suffers statutory limitation period as per Tamil Nadu Co-operative Societies Act and Rules 1983.

For Petitioner : Mr.L.Chandrakumar

For Respondent : Mr.L.P.Shanmugasundaram
Special Government Pleader
(Co-operatives)

ORDER

This writ petition has been filed for the issue of writ of Mandamus directing the respondents 1 to 3 to discontinue the enquiry that has been initiated pursuant to the proceedings of the 1st respondent dated 01.02.2020 under Section 81 of the Tamil Nadu Co-operative Societies Act.

2. The learned counsel for the petitioner primarily raised two grounds. The 1st ground raised by the learned counsel for the petitioner is that the enquiry pertains to the period from 2015 to 2019 and the enquiry was directed to be commenced by an order dated 01.02.2020 and the statutory time fixed under Section 81(4) of the Act is only up to a maximum period of six months and therefore, the same will expire after 31.07.2020, if the enquiry is not completed by then. In the present case, the period has expired and the enquiry has not even commenced. The 2nd ground that has been raised by the learned counsel for the petitioner is that none of the earlier scrutiny that was done at the time of the annual audit, local fund audit or any other special audit has pointed out any financial irregularities and if the enquiry is conducted now pursuant to the proceedings of the 2nd respondent, dated 01.02.2020, the same will have an adverse effect on the members of the society and it will also impact the functioning of the society.

3. Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader appearing on behalf of the respondents submitted that the limitation fixed under Section 81 of the Co-operative Societies Act is only directory and not mandatory and therefore, the proceedings cannot be held to have lapsed as pointed out by the learned counsel for the petitioner. The learned Special Government Pleader further submitted that the 2nd respondent had proceeded to order for an enquiry under Section 81 of the Act for the period from 2015 to 2019, since there were several financial irregularities that was committed during this period and the same requires to be enquired by an officer and only after a report is given, the true state of affairs will be revealed. The learned counsel submitted that there are absolutely no grounds to interfere with the proceedings of the 2nd respondent dated 01.02.2020.

4. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

5. The enquiry under Section 81 of the Co-operative Societies Act is in the nature of a fact finding enquiry and until it is utilised to take any further action, no one can be said to be prejudiced by a mere commencement of an enquiry under Section 81 of the Act. Useful reference can be made to the Division Bench judgement of this Court in [P.Krishnan Vs. The Deputy Director of Industries and Commerce (Industrial Co-operatives) and others] reported in 2020 2 Law Weekly 849. Therefore, the 2nd ground raised by the learned counsel for the petitioner to the effect that the enquiry will impact the interest of the members and it will affect the regular and proper functioning of the society, is not acceptable to this Court.

6. Insofar as the 1st ground that has been raised by the learned counsel for the petitioner to the effect that the six months time fixed under the Act has already lapsed, the issue is no longer resintegra and the law has been settled by the Division Bench of this Court in [S.V.K.Sahasramam Vs. The Deputy Registrar of Co-op Societies, Thiruvannamalai and others] reported in 2008 8 MLJ 231. The Division Bench categorically held that the period of limitation prescribed under Section 81 of the Act is only directory and not mandatory. Therefore, this Court is not in agreement with the first ground that was raised by the learned counsel for the petitioner.

7. In the considered view of this Court, there is no ground to interfere with the proceedings of the 2nd respondent dated 01.02.2020 and what is now being attempted by the 2nd respondent is only to collect certain facts which may or may not be utilised in future. Such a fact finding enquiry cannot be interfered even at the inception by this Court. This Court does not find any merits in the present writ petition and accordingly, the same is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

rka

To

1. The Registrar of Co-operative Societies (Housing),
48, Ritherdon Road,
Vepery, Chennai 600 007.
2. The Regional Deputy Registrar (Housing),
Coimbatore Region, Chintamani Complex,
North Coimbatore, Metupalayam Road,
Coimbatore.
3. The Secretary,
Ne.Ke.No.1704, M.G.R Industrial Workers,
Co-operative Housing Society,
Coimbatore.

+1cc to the Spl Govt.Pleader(CO-OP) SR.31910

WP No.13353 of 2020

VG II(CO)
CB(06/11/2020)