

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:04.12.2020

Coram

The Honourable Mr. Justice V.PARTHIBAN

W.P.No.17088 of 2020

and

W.M.P.No.21153 of 2020

P.Sagadevan

...Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
Dharmapuri Circle,
Dharmapuri.
2. The Deputy Registrar of Co-operative Societies,
Dharmapuri Circle,
Dharmapuri.
3. K.K.25, Mothur Primary Agricultural
Co-operative Society,
Rep. by its President,
Mothur Village and Post,
Karimangalam Taluk,
Dharmapuri District.
4. Mr.N.V.Anandan,
Advocate Salem,
Enquiry Officer
Appointed for Domestic Enquiry,
K.K.25, Mothur Primary Agricultural
Co-opertive Society,
Mothur Village and Post,
Karimangalam Taluk,
Dharmapuri District.

...Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the present impugned Show Cause Notice issued by the 1st respondent in Na.Ka.1710/2020 Tho Sa dated 01.10.2020 and quash the same.

For Petitioner

.. Mr.V.Manohar

For Respondents

.. Mr.L.P.Shanmugasundaram
Special Government Pleader
or R1 and R2

ORDER

The matter is taken up through web hearing.

This Writ Petition has been filed to issue a Writ of Certiorari to call for the records of the present impugned Show Cause Notice issued by the 1st respondent in Na.Ka.1710/2020.Tho.Sa dated 01.10.2020 and quash the same.

2. The case of the petitioner is that he was working as a Secretary in the 3rd respondent Society. He was suspended from service on 01.08.2015 and was also issued with the charge memorandum on 26.07.2016 for certain serious acts of misconduct. A domestic enquiry was initiated against him and an Enquiry Officer was also appointed, who is arrayed as the 4th respondent in this Writ petition. On conclusion of the enquiry, a report was also submitted on 07.11.2018 and thereafter, the show cause notice was issued. The petitioner, at that point of time, felt aggrieved as according to him that the proceedings were conducted not in consonance with the Tamil Nadu Co-operative Societies Act and hence, approached this Court in W.P.No.14893/2019 challenging the enquiry report and the show cause notice issued to him on 07.11.2018 and 25.02.2019. However, this Court did not entertain the said writ petition by granting him any protection and dismissed W.M.P.No.14876/2019, against which, Writ Appeal SR number was filed and the same is also pending, according to the petitioner.

3. In the meanwhile, the respondents proceeded with the enquiry proceedings against the petitioner and on conclusion of the same, a show cause notice was issued on 01.10.2020. In the show cause notice, the petitioner was informed that till date, there was no explanation forthcoming from him and therefore, he was directed to finally submit his explanation, failing which, final orders would be passed. Challenging the same, the present Writ Petition has been filed.

4. Learned counsel for the petitioner, Mr.V.Manohar, would submit that when the earlier W.P.No.14893/2019 filed against the enquiry report and the show cause notice is pending before this Court and also the Writ Appeal SR number is pending, it is not open to the authority to issue the present show cause and going ahead with the enquiry proceedings. By this, the authority is attempting to defeat the rights of the petitioner in the pending litigation before this Court. Therefore, the learned counsel would submit the show cause notice impugned may be stayed and the writ petition may be posted along with the pending writ petition.

5. This Court is unable to appreciate the challenge of the petitioner for the simple reason that it is always open to the petitioner to submit his explanation to the show cause notice on merits and explain his defence to the charges. On the other

hand, it is not to open to the petitioner to stall the enquiry proceedings at every stage and scuttle the efforts of the authority to proceed against him in the manner known to law. Although the petitioner herein has attempted to stall the proceedings, even at the stage of enquiry report being submitted, the petitioner was not successful in obtaining any interim order from this court. Merely because the writ petition against the enquiry report is pending cannot give the petitioner right to seek postponement of the enquiry proceedings.

6. Even otherwise, this Court finds that interference in the show cause in disciplinary matters is permissible only in exceptional circumstances of a rare kind. This Court does not find any exceptional circumstances for this Court to exercise its discretion to injunct the authority from proceeding with the final stage of the enquiry proceedings. Moreover, this Court finds that the petitioner is facing very serious charges against him and it is always quite common that person who is facing such charges would try every method to stall the proceedings against him by approaching the Court at the preliminary stage. By citing pending of litigation, persons like the petitioner would take undue advantage and ultimately, by passage of time, the persons like the petitioner would achieve their illegitimate purpose. This Court cannot be a party to such design and deviousness.

7. For the above reasons, this Court finds no merits to interfere at this stage and the writ petition is completely devoid of merits and substance and hence, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

vsi

Sub Assistant Registrar

To

1. The Joint Registrar of Co-operative Societies,
Dharmapuri Circle,
Dharmapuri.
2. The Deputy Registrar of Co-operative Societies,
Dharmapuri Circle,
Dharmapuri.

+1cc to M/s.V.Manohar, Advocate, S.R.No.39112

+1cc to the Government Pleader, S.R.No.39296

W.P.No.17088 of 2020

(CO)

rv(19/01/2021)