



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.07.2020

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THE HONOURABLE MR.JUSTICE **C. SARAVANAN**

W.P.(MD)No.7165 of 2020

and W.M.P.(MD) Nos. 6602 & 6604 of 2020

WEB COPY

1. P. Xavier
2. S. Jesuvadian
3. V. Johnson

... Petitioners

Vs.

- 1.The Joint Director of Fisheries,
Tuticorin, Tuticorin District.
2. No. 35, Loorthammalpuram Fisherman
Co-operative Society Ltd.,
Tuticorin, Tuticorin District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a **Writ of Certiorari**, to call for the records on the sides of the second respondent pertaining to its order bearing Na.Ka. No.1591/E/2018 dated 03.06.2020 and to quash the same.

For Petitioners :Mr. S.C. Herold Singh

For R1 and R2 :Mrs.S. Srimathy,
Special Government Pleader

ORDER

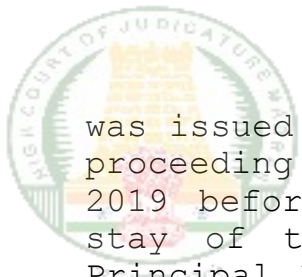
With the consent of both the counsels, this writ petition is taken up for final hearing and disposal.

2.This Writ Petition is filed to quash the proceedings of the second respondent dated 03.06.2020 bearing Na.Ka. No.1591/E/2018.

3.Heard the learned Counsel appearing for the petitioners and the learned Special Government Pleader appearing for R1 and R2.

3.The petitioners have challenged the impugned communication, dated 03.06.2020 in Na.Ka. No.1591/E/2018 of the first respondent. By the impugned order dated, the 2nd respondent has disqualified the petitioners as the office bearers of the 2nd respondent society. The petitioners claim to have purchased a property for the 2nd respondent Society using the funds of the 2nd respondent Society. The purchase was purportedly pursuant to a resolution authorising liquidating the fixed deposits of the 2nd respondent.

4.According to them, there was no mis-appropriation of the funds. After an enquiry was ordered under Section 81 of the Tamil Nadu Co-operative Societies Act, Show Cause Notice dated 07.12.2013



was issued to the petitioners under Section 87 of the Act. The said proceeding was challenged by the petitioners in C.M.A. C.S.No.5 of 2019 before the Principal District Judge, Tuticorin. An interim stay of the Show Cause Notice proceeding was ordered by the Principal District Judge, Tuticorin. However, during the pendency of the said proceeding, an order dated 11.11.2019 was passed by the 2nd respondent.

5.It appears that the petitioner filed writ petition in W.P. (MD) No.28968 of 2018 against the order dated 11.11.2019. Pending disposal of the said writ petition, the 2nd respondent has passed the impugned order dated 03.06.2020.

6.It appears in the said writ petition, after taking time to file counter, the 2nd respondent has passed the impugned order. Though the petitioners had not obtained any stay of the operation of order dated 11.11.2019, yet it was incumbent on the part of the 2nd respondent to have pressed for dismissal of the said writ petition and vacated the stay granted by the Principal District Judge, Tuticorin before passing the impugned order.

7.It is clear that the 2nd respondent also has been responsible in initiating multiple proceedings. However, before passing the impugned order dated 11.11.2019, the respondents ought to have vacated interim stay dated 21.01.2019 in I.A.No.5 of 2019 in C.M.A.No.5 of 2019 and pressed for dismissal of the W.P (MD) No.28968 of 2018.

8.In view of the same, the impugned order is quashed leaving it open for the respondents to have the stay vacated to proceed against the petitioner in accordance with law. The 2nd respondent is therefore directed to take appropriate steps under Tamil Nadu Co-operative Societies Act, 1983. Since the Act contemplates mandatory issue of notice to the petitioner, the second respondent shall issue notice to the petitioners before proceeding further.

9.The Writ petition stands disposed of with the above provisions. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Joint Director of Fisheries,
Tuticorin, Tuticorin District.
2. No. 35, Loorthammalpuram Fisherman
Co-operative Society Ltd.,
Tuticorin, Tuticorin District.

W.P(MD)No.7165 of 2020
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