



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2020

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.4749 of 2014
and M.P(MD) Nos. 1 and 2 of 2014

S.Buela Gnanalate

: Petitioner

Vs.

1.The Registrar of Co-operative Societies,
No.170, E.V.R.Periyar High Road,
Kilpauk, Chennai - 600 010.

2.The Joint Registrar of Co-operative Societies,
Tirunelveli Region,
Palayamkottai,
Tirunelveli 627 002.

3.The Deputy Registrar of Co-operative Societies,
Cheranmahadevi Circle Co-operative Societies,
Ambasamudram Taluk,
Cheranmahadevi Post,
Tirunelveli District.

4.The Enquiry Officer,
kalaikkadu Co-operative Sub Registrar,
Primary Agricultural Co-operative Credit Society,
E.E.413, South Karungulam,
Salaiputhur,
Levinjipuram Post,
Tirunelveli District.

: Respondents

Prayer: The Writ Petition filed under Article 226 of the Constitution of India, seeking for Writ of Certiorari calling for the records pertaining to the proceedings of the enquiry report of the enquiry officer dated 28.2.2012 being passed as per the direction of Deputy Registrar of Co-operative Societies Cheranmahadevi in Na.ka.No.3107/2011 dated 29.8.2011 and quash the same.

For Petitioner : Mrs.J.Anandhavalli

For Respondents : Mr.D.Muruganandham
Additional Government Pleader



O R D E R

The Enquiry Report submitted by the fourth respondent dated 28.02.2012 is under challenge in the present Writ Petition. The Enquiry Report impugned in the Writ Petition reveals that the fourth respondent - Enquiry Officer is a statutory Enquiry Officer appointed under Section 81 of the Tamil Nadu Co-operative Societies Act by the competent authority, namely, the Deputy Registrar of the Co-operative Societies.

2. The Co-operative Societies Act is a comprehensive statute wherein various mechanism are provided to regulate the affairs of the Co-operative Societies across the State of Tamilnadu registered under the Act. Section 80 of the Act provides audit. Section 81 stipulates inquiry. Section 82 contemplates inspection and investigation. Thus, Section 81 inquiry as a statutory inquiry contemplated under the Act in order to ascertain irregularities/illegalities, misappropriation and fraudulent activities if any, in a Co-operative Society.

3. Section 81 stipulates that the Registrar may, of his own motion and shall, on the application of a majority of the board or of not less than onethird of the members or on the request of the financing bank or of the District Collector, hold an inquiry, or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society or any alleged misappropriation, fraudulent retention of any money or property, breach of trust, corrupt practice, or mismanagement in relation to that society or into any particular aspect of the working of that society.

4. While powers are provided in order to control the affairs of the Co-operative Societies by the competent authority by the provisions of the Tamilnadu Co-operative Societies Act, the statutory inquiry conducted under Section 81 of the Act is not conclusive and it is only a report to be submitted by the Enquiry Officer to the competent authority. Mere enquiry report would not provide any cause of action for the purpose of challenging the same unless the inquiry itself is in violation of the Act or the Enquiry Officer is incompetent to conduct the inquiry in accordance with the Act. In the present case, no such allegations are established. Thus, the inquiry under Section 81 of the Tamilnadu Co-operative Societies Act was conducted by the fourth respondent and he submitted a report for further action by the competent authorities.

5. The Enquiry Report is a basic document for the purpose of initiation of action and it is not a final order under the Act. Once a report under Section 81 of the Act is submitted, the competent authorities are empowered to initiate threefold actions against the



responsible officials/employees. In the event of any misappropriation, fraudulent activities etc., a criminal case can be registered before the Criminal Crime Investigation Wing and simultaneously departmental disciplinary proceeding also can be instituted. Beyond this action, a surcharge proceeding also can be initiated under Section 87 of the Tamilnadu Co-operative Societies Act. Thus, threefold actions are permissible; surcharge proceedings can be initiated in order to recover the loss occurred in the Co-operative Society; departmental actions can be taken under disciplinary rules; criminal cases can be registered for the offences committed under Indian Penal Code and other such statute. This being the scope of the Enquiry Report submitted by the fourth respondent in the present case, the very Enquiry Report cannot be a ground to challenge the same. Mere report would not provide any cause of action in the writ petition. If any action is initiated pursuant to the report, thereafter the writ petitioner is bound to defend the same and subsequently, approach the competent authorities in the manner prescribed under law.

6. This apart, the fourth respondent has submitted a certain factual position and other irregularities/illegalities. The authorities competent are bound to initiate further action and in the event of initiation of further action, the petitioner has to defend his case. This being the factum, the writ against the Enquiry Report filed under Section 81 of the Tamilnadu Co-operative Societies Act is not entertainable in a routine manner. Only on exceptional circumstances, if such report is without jurisdiction or unconstitutional, then alone, the relief can be considered and not otherwise. Thus, the writ petitioner has not established any such acceptable ground for the purpose of granting the relief. Therefore, the writ petition is devoid of merits and stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Tsg-2/CM

To

1.The Registrar of Co-operative Societies,
No.170, E.V.R.Periyar High Road,
Kilpauk, Chennai - 600 010.



2.The Joint Registrar of Co-operative Societies,
Tirunelveli Region,
Palayamkottai,
Tirunelveli 627 002.

3.The Deputy Registrar of Co-operative Societies,
Cheranmahadevi Circle Co-operative Societies,
Ambasamudram Taluk,
Cheranmahadevi Post,
Tirunelveli District.

4.The Enquiry Officer,
kalaikkadu Co-operative Sub Registrar,
Primary Agricultural Co-operative Credit Society,
E.E.413, South Karungulam,
Salaiputhur,
Levinjipuram Post,
Tirunelveli District.

+1 CC to SGP (SR-21580[F] dated 09/11/2020)

Order in
W.P(MD)No.4749 of 2014
and M.P(MD)Nos. 1 and 2 of 2014

05.11.2020

KM(CO)
NR (01/12/2020) 4P : 6C