



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.22729 of 2015

and M.P(MD).No.2 of 2015

and W.M.P(MD).Nos.2186, 12219 and 803 of 2016

WEB COPY

S.Murugan

... Petitioner

-Vs-

1. The Registrar of Co-operative Societies (Housing),
Tamil Nadu Housing Board Complex,
Nanthanam, Chennai 35.

2. The President,
DD 382, Nagalnagar Co-operative Housing Society Ltd.,
13,S.K.D.Complex,
Mangles Road,
Dindigul-1

... Respondents

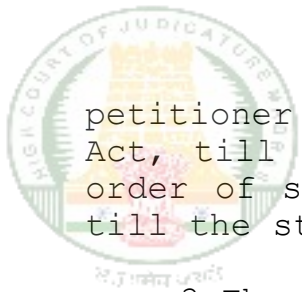
Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, against the order of the first respondent passed in Na.Ka.No.3325/2014 sa.pa2 dated 07.09.2015 and the consequent order of the second respondent passed in Na.Ka.No.2/2015 dated 20.10.2015 in the nature of writ calling for the records on the file of the respondents and quash the same.

For Petitioner : Mr.S.Arivalagan
For Respondent : Mr.P.Mahendran
Additional Government Pleader (for R1)
Mr.A.Muthukarupan (for R2)

ORDER

The order, dated 07.09.2015 passed by the first respondent and the consequential order of the second respondent, dated 20.10.2015 are under challenge in the present writ petition.

2.The order of the first respondent/Registrar of Co-operative Society (Housing) was issued under Section 76 of the Tamil Nadu Co-operative Societies Act (hereinafter referred to as 'Act'), consequential order was passed by the President of the Co-operative House Building Society placing the writ petitioner under suspension. The order of the first respondent reveals that several irregularities were noticed and in order to prevent any further irregularity in the Co-operative House Building Society, the



petitioner is placed under suspension under Section 76(1) (b) of the Act, till the enquiry under Section 81 is completed. The impugned order of suspension reveals that the suspension order is in force, till the statutory enquiry instituted under Section 81 is completed.

3.The learned Additional Government Pleader brought to the notice of this Court that Section 81 enquiry was concluded and report was filed and based on the Section 81 enquiry report, Sur-charge proceeding under Section 87 of the Tamil Nadu Co-operative Societies Act was initiated. Further, a charge sheet was also issued against the writ petitioner.

4.This being the factum, the impugned order of suspension lapsed automatically and the petitioner is entitled for reinstatement and sur-charge proceedings as well as the disciplinary proceedings must go on by following the procedures as contemplated. It is needles to say that three fold actions are permissiable under the Co-operative Societies Act. If an allegation of misappropriation or irregularities is noticed and an enquiry report is submitted under Section 81 of the Tamil Nadu Co-operative Societies Act, the criminal case can be registered before the Commercial Crime Investigation Wing and secondly, departmental disciplinary proceeding can be initiated and thirdly, sur-charge proceeding can also be initiated under Section 87 of the Act. In the present case, the sur-charge proceedings are initiated to make good the financial lose occured to the Society and disciplinary proceedings are also initiated. This being the factum, the order of suspension, it was issued till the completion of 81 enquiry, became lapsed and the petitioner is to be reinstated and the enquiry is initiated must be continued and final order is to be passed by following the procedures contemplated. If the petitioner is already reinstated, the disciplinary proceedings as well as the sur-charge proceedings must be completed as expeditiously as possible. If the petitioner is not reinstated, the respondents are directed to reinstate the petitioner pending disposal of the enquiry proceedings as well as the sur-charge proceedings.

5.With these discussions, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

rmk

<https://hcservices.ecourts.gov.in/hcservices/>



To

The Registrar of Co-operative Societies (Housing),
Tamil Nadu Housing Board Complex,
Nanthanam, Chennai 35.

WEB COPY

+1cc to the SPL GP SR.No.26237.

W.P. (MD) .No.22729 of 2015

MK (CO)
CS (11.01.2021) 3P 3C