



WEB COPY

W.P(MD)No.26969 of 2019

RESERVED ON:24.02.2020  
DELIVERED ON: 26. 02.2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :26.02.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

AND

THE HONOURABLE MR.JUSTICE T.RAVINDRAN

W.P(MD)No.26969 of 2019

and

W.M.P. (MD)Nos.23323 of 2019 and 1675 of 2020

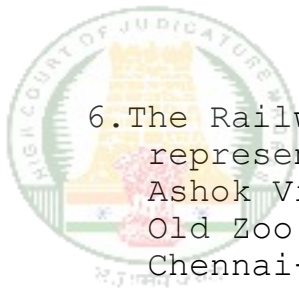
L.Arputha Raj

... Petitioner

Vs.

- 1.The Joint Secretary & CVO,  
Department of Agriculture & Co-operation,  
Ministry of Agriculture and Farmers Welfare,  
Krishi Bhawan,  
Rajendra Prasad Road,  
New Delhi-110001.
- 2.The Director Establishment (General),  
Railway Board,  
Ministry of Railway,  
Federation of Railway Officer's Association Office,  
256-A, Rail Bhavan,  
Raisina Road, New Delhi.
- 3.The Director,  
Central Vigilance Commission,  
Satarkata Bhavan, A-Block,  
GPO Complex, INA,  
New Delhi-110 023.
- 4.The Director,  
Central Bureau of Investigation,  
Plot No.5-B,  
CGO Complex,  
Lodhi Road,  
New Delhi-110 003.
5. Central Registrar,  
Multi State Co-operative Societies,  
Ministry of Agriculture,  
Department of Agriculture and Co-operation,  
Krishi Bhavan,  
New Delhi-110 001.

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6.The Railway Employees Co-operative Credit Society Ltd.,  
represented by its Chief Exexutive,  
Ashok Vihar Complex,  
Old Zoo Road,  
Chennai-600 003.

7.Southern Railway Employees Cooperative Credit Society Ltd.,  
represented by its Chief Executive,  
NH-45, Bharathiyar Salai,  
Sangillyandapuram,  
Tiruchirappalli-620 001.

8.N.Kanniah,  
Chairman,  
Railway Employees Co-operative Credit Society Ltd.,  
Ashok Vihar Complex,  
Old Zoo Road, Chennai-600 003.

9.S.Ramalingam,  
Managing Director,  
Railway Employees Co-operative Credit Society Ltd.,  
No.1, Dindigul Road,  
Tiruchirappalli-620 001.

10.S.Veerasekaran,  
Ex-Chairman,  
Railway Employees Co-operative Credit Society Ltd.,  
Ex.TTI, Southern Railway, Trichy-1,  
No.28, Sakthi Nagar, Nelson Road,  
T.V.Koil, Tiruchy-620 005.

11.Vijayarani

12.M/s A.V.Devan & Co.,  
Chartered Accountants,  
No.31(Old 59) South West Boeg Road,  
T.Nagar, Chennai.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the fourth respondent to investigate the complaint lodged against the respondents 8 to 12 by the petitioner and initiate necessary action against them in accordance with law.

For Petitioner : Mr..T.Lajapathi Roy

For Respondents : Mr.K.R.Laxman  
for R.1, R.3 and R.5

: Mr.S.Manohar  
for R.2



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:Mr.C.K.Chandrasekar  
for R.6

:Mr.K.S.Kathiravan  
for M/s AL.Ganthimathi  
for R.8

: Mr.Ajmal Khan  
Senior Counsel  
for Mr.Mohammed Imran  
for R.11

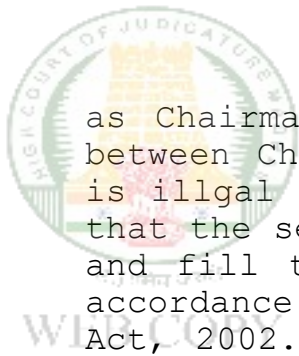
**ORDER**

[Order of the Court was made by **M.DURAISWAMY, J.**]

The above Writ Petition has been filed by the petitioner as a Public Interest Litigation to issue a Writ of Mandamus directing the fourth respondent to investigate the complaint lodged against the respondents 8 to 12 by the petitioner and initiate necessary action against them in accordance with law.

2. According to the petitioner, he is a farmer, an ex-member and ex-director of Southern Railway Employees Co-operative Credit Society, Trichy. Further he has stated that he is a retired employee and retired from service. According to the petitioner, the Southern Railway Employees Co-operative Credit Society, Trichy and the Railway Employees Co-operative Society, Chennai are the Societies registered under the Multi-State Co-operative Societies Act, 2002. According to the petitioner, the respondents 8 to 11 have violated the provisions of the Multi-State Co-operative Societies Act, 2002 and Rules therein and also the Indian Railways Establishment Manual. Further the petitioner alleged that the respondent No.12, a Chartered Accountant for both Chennai and Trichy Societies, colluded with the respondents 8 to 11 with regard to the misappropriation and disproportionate assets of the Society's properties. Further according to the petitioner, he made a representation dated 09.05.2018 to the Honourable Prime Minister Cell to take appropriate action. Subsequently, the second respondent directed the respondents 1, 3 and 4 to take action on the representation dated 09.05.2018. Further, the petitioner has also stated that the Trichy Society is registered under the Multi-State Co-operative Societies Act, 2002 and comes under the Department of Agriculture and Cooperative and Railway Administration has no jurisdiction over the administrative, financial and managerial matters of the Society.

3. One A.Janakiraman has also filed a writ petition in W.P.No.31326 of 2018 seeking for a declaration to declare that the continuation of the eighth respondent in the present writ petition



as Chairman and the practice of the second respondent alternating between Chairman and Vice Chairman of the first respondent Society is illegal and consequently directing the third respondent to ensure that the second respondent demits office as Chairman / Vice Chairman and fill the post of Chairman in the first respondent Society in accordance with Section 44 of the Multi-State Co-operative Societies Act, 2002. The learned Single Judge of this Court, by order dated 05.12.2019, dismissed the writ petition.

4. It is pertinent to note that after the dismissal of the writ petition on 05.12.2019, the present writ petition has been filed by the petitioner as a Public Interest Litigation on 17.12.2019. The petitioner has also averred that he made a detailed representation to the second respondent, explaining the loss faced by the railway based on disproportionate assets and misappropriation of funds by the respondents 8 to 11, on 29.07.2019. Since the petitioner's representations were not considered by the authorities, he has filed the present writ petition as a Public Interest Litigation.

5. At the outset, for directing the fourth respondent to investigate the complaint lodged against the respondents 8 to 12, the petitioner has not made any specific averment in the affidavit filed in support of the petition. For giving a direction to the Central Bureau of Investigation (CBI) or to the police, the petitioner should establish that the private respondents have committed the offence. Based on bald allegations, neither the police nor the CBI can be directed to investigate such allegations.

6. It is brought to the notice of this Court by the learned Counsel appearing for the respondents that the petitioner is not a member of the Society and in fact, he was dismissed from service of the railways. However, the petitioner, suppressing the dismissal of service, in the affidavit filed in support of the writ petition has stated that he had retired from service. When the petitioner is not a member of the Society, the writ petition filed by him as a Public Interest Litigation in respect of the misdeeds in Railway Employees Co-operative Credit Society Ltd., cannot be entertained.

7. It is also pertinent to note that in the writ petition filed by one A.Janakiraman in W.P.No.31326 of 2018 (mentioned above), the learned Single Judge had dismissed the writ petition on 05.12.2019. Immediately after the dismissal of the writ petition ie., on 17.12.2019, the petitioner has filed the present writ petition as a Public Interest Litigation seeking for identical relief.

8. The learned Counsel appearing for the sixth respondent submitted that in view of the ratio laid down by the learned Single Judge in ***Union of India (Railway Board) and Others Vs. J.V.Subhaiah***



**and Others** reported in **(1996)2 Supreme Court Cases 258**, the writ petition is liable to be dismissed.

9. In the judgment in **Union of India (Railway Board) and Others Vs. J.V.Subhaiah and Others** reported in **(1996)2 Supreme Court Cases 258**, the Honourable Apex Court held as follows:

" 22. We, therefore, have no hesitation to hold that the officers, employees and servants appointed by the Railway Co-operative Stores/Societies cannot be treated on par with Railway servants under paragraph 10B of the Railway Establishment Code nor they can be given parity of status, promotions, scales of pay, increments etc. as ordered by the CAT, Hyderabad Bench."

10. From the above judgment, it is clear that the employees and servants appointed by the Railway Co-operative Stores/Societies cannot be treated on par with Railway servants.

11. Mr.Ajmal Khan, learned Senior Counsel, appearing for the eleventh respondent, submitted that the petitioner cannot seek for registration of a First Information Report in a writ petition under Section 226 of the Constitution of India. Further the learned Senior Counsel submitted that even under Section 482 of the Criminal Procedure Code, the petitioner cannot seek for such remedy.

12. In support of his contention, the learned Senior Counsel relied upon a judgment of a Division Bench of this Court in **G.Prabakaran Vs. Superintendent of Police and another** reported in **2018(5) CTC 623**, wherein the Division Bench of this Court held as follows:

35. Accordingly, we answer the references in the following manner, while giving certain directions:

(i) Section 482 Cr.P.C. cannot be invoked in all circumstances.

(ii) It is not an alternative remedy to Section 156(3) Cr.P.C. but a repository of inherent power.

(iii) The normal course of remedy on a failure or refusal to record the information is Section 156(3) of the Code of Criminal Procedure after due compliance of Section 154(3) Cr.P.C.

(iv) A petition can be filed invoking the inherent jurisdiction of this Court only after the completion of 15 days from the date of receipt of the information by the Station House Officer. The Registry shall not receive any petition before the expiry of 15 days aforesaid.

(v) No petition shall be entertained without exhausting the remedy under Section 154(3) Cr.P.C.



(vi) An informant can send substance of the information to the Superintendent of Police on knowing the decision of the Station House Officer in not registering the case and proceeding with the preliminary enquiry. After conducting the preliminary enquiry, the Station House Officer's decision in either registering the complaint or closing it will have to be intimated to the informant immediately and in any case not later than 7 days. Once such a decision is made, the informant cannot invoke Section 482 Cr.P.C. as the remedy lies elsewhere.

(vii) The directions issued by the Director General of Police in the circulars referred are to be strictly complied with by all the Station House Officers.

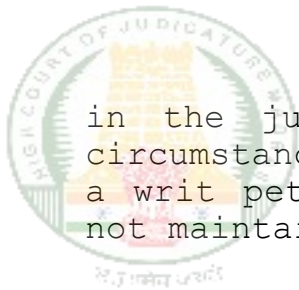
(viii) The affidavit to be filed shall contain particulars regarding the date of complaint, receipt and the date of sending substances of the information to the superintendent of Police under Section 154(3) Cr.P.C. and its receipt. The Registry shall not number any petition without due compliance.

(ix) This Court is not bound to direct the police to register the complaint in all cases notwithstanding the breach of time table furnished in **Lalitha Kumari V. Govt. of U.P. & Ors., 2013(3) MWN (Cr.321 (SC))**.

(x) The judicial Magistrates, while dealing the petitions under Sections 156(3) Cr.P.C. are directed to keep in mind the narratives in **Lalitha Kumari V. Govt. of U.P. & Ors., 2013(3) MWN (Cr.321 (SC))** with specific reference to the cases, which might require a preliminary enquiry before issuing a direction to investigate and after careful perusal of the complaint. The other directions issued by the learned Single Judge in **Sugesan Transport Pvt. Ltd., V. The Assistant Commissioner of Police J-2, Adayar Police Station Adyar, Chennai-600 020 and others, 2016(MWN (Cr.) 236** are upheld.

(xi) Eschewing Section 156(3) Cr.P.C. is only on exceptional and rarest of rare cases. Monstrosity of the offence, extreme official apathy and indifference, need to answer the judicial conscience, and existence of hostile environment are few of the factors to be borne in mind to bring a case under the rarest of rare one.

*The references stands ordered accordingly."*



in the judgment cited supra squarely applies to the facts and circumstances of the present case. It is also settled position that a writ petition under Article 226 of the Constitution of India is not maintainable as against the Co-operative Societies.

14. The learned Counsel appearing for the sixth respondent also submitted that the dispute arising out of the Railway Employees Co-operative Credite Society Ltd., can be resolved only by Arbitration under Section 84 of the Multi-State Co-operative Societies Act, 2002.

15. Since the petitioner has not substantiated his case by any acceptable evidence, the relief sought for in the writ petition cannot be granted. The petitioner cannot seek for any direction with bald allegations. Further it is also brought to the notice of this Court that, the the writ petition filed by A.Janakiraman before the Delhi High Court in W.P.(C) 468 of 2014 for registering a First Information Report and to investigate the corruption, criminal activities and disproportionate assets amassed by the Chairman, Board of Directors and Chief Executives of the Southern Railway Employees Co-operative Credit Society, Trichy and Railway Employees Co-operative Credit Society, Chennai as well as misappropriation of funds of the said two Societies from the year 1989, by giving a direction to the CBI to investigate criminal conspiracy perpetuated by the politicians and senior officials of the Ministry of Agriculture and Co-operation, the Delhi High Court, by order dated 22.01.2014, dismissed the writ petition.

16. For the identical relief, the petitioner has filed the present writ petition. When the relief sought for in this writ petition has already been rejected by the Delhi High Court as well as by this Court, we are not inclined to entertain the writ petition.

17. The petitioner has not made out a case for referring the complaint to the CBI for investigation. For the reasons stated above, the Writ Petition is devoid of merits and the same is dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petitions are also dismissed.

Sd/-

Assistant Registrar (CO)

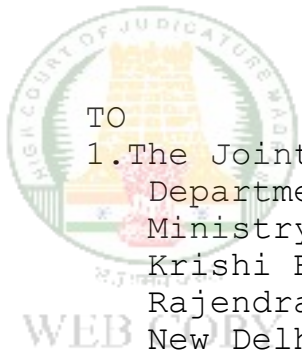
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Sub Assistant Registrar(CS)

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TO

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Department of Agriculture & Co-operation,  
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5. Central Registrar,  
Multi State Co-operative Societies,  
Ministry of Agriculture,  
Department of Agriculture and Co-operation,  
Krishi Bhavan,  
New Delhi-110 001.

- +1 CC to M/s.K.R.LAXMAN, Advocate ( SR-8358[F] dated 26/02/2020 )  
+3 CC to M/s.AJMAL ASSOCIATES, ( SR-8379 & 8496 [F] dated 26/02/2020 )  
+1 CC to M/s.AL.GANTHIMATHI, Advocate (SR-8608[F] dated 27/02/2020 )  
+1 CC to M/s.S.MANO HAR, Advocate ( SR-8620[F] dated 27/02/2020 )  
+1 CC to M/s.T.LAJAPATHI ROY, Advocate ( SR-9150[F] dated 28/02/2020 )

ORDER MADE IN  
**W.P (MD) No.26969 of 2019**  
**and**  
**W.M.P. (MD) Nos.23323 of 2019 and 1675 of 2020**  
**26.02.2020**

JMN (06.03.2020) 8P : 13C