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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2021

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P. No.10617 of 2009

P.N.Mohan

...Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies
Lalbahadur Sastri Street,
Periyakuppam, Tiruvallur Railway Station,
Tiruvalur

2.The Co-operative Sub-Registrar/Enquiry Officer,
O/o the Deputy Registrar of Co-Operative Societies,
Lalbahadur Sastri Street,
Periyakuppam, Tiruvallur Railway Station,
Tiruvalur

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to Writ of Certiorari calling for the records pursuant to the impugned notice issued by the 2nd respondent under Section 87 of the Tamil Nadu Co-operative Societies Act in proceeding dated 07.03.2009 and quash the same.

For Petitioner : Mr.R.Prem Narayanan

For Respondents : Mr.John J. Raja Singh
Government Advocate

ORDER

Heard Mr.R.Prem Narayanan, learned counsel for the petitioner and Mr.John J. Raja Singh, learned Government Advocate for the respondents i.e. the Deputy Registrar of Co-operative Societies/R1 and the Co-operative Sub-Registrar/Enquiry Officer/R2.

2. The petitioner has challenged a notice dated 07.03.2009, which proposes action in terms of Section 87 of the Tamil Nadu Co-operative Societies Act, 1983 for recovery of loss, if any, occasioned to the society by the petitioner. The petitioner was holding the post of Secretary in Periyapalayam Primary Agricultural Co-operative Bank and superannuated from



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service on 31.05.2008. While this is so, the impugned notice has come to be issued proposing surcharge proceedings. It is the specific case of the petitioner that Section 87 of the Act stands triggered only if there was any loss occasioned by the petitioner and in the present case, since there were no disciplinary proceedings initiated in the case of the petitioner, the question of loss to the society does not arise.

3. The question of whether any loss has been occasioned by reason of acts of the petitioner is one of fact and hence I am not inclined to consider the same in the present writ petition.

4. The petitioner has tendered an explanation to the notice on 09.03.2009 and there has been exchange of communication between the petitioner and the respondents on 30.03.2009 and 09.04.2009 as well. Thus, it is in the fitness of things that R2 be directed to consider the explanations, hear the petitioner and pass orders within a period of four weeks from the date of personal hearing.

5. For the aforesaid purpose, the petitioner will appear before R2 on Monday, the 6th of September at 10:30 a.m. and orders shall be passed within a period of four weeks thereafter i.e. on or before 06.10.2021, after hearing the petitioner. Both parties are directed to scrupulously adhere to the time lines, as aforesaid, seeing as the impugned notice is of the year 2009 and has been kept in vacuum by virtue of interim order dated 17.06.2009, effective for more than 12 years as on date.

6. With the aforesaid directions, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar (CS-VI)

// True Copy //

Sub Assistant Registrar

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To

1.The Deputy Registrar of Co-operative Societies
Lalbahadur Sastri Street,
Periyakuppam, Tiruvallur Railway Station,
Tiruvallur.



2.The Co-operative Sub-Registrar/Enquiry Officer,
O/o the Deputy Registrar of Co-Operative Societies,
Lalbahadur Sastri Street,
Periyakuppam, Tiruvallur Railway Station,
Tiruvallur

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+1cc to Mr.R.Prem Narayanan, Advocate SR.No.43597

+1cc to the Government Pleader SR.No.43899

W.P. No.10617 of 2009

MG(CO)
RVM(02/09/2021)