



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2021

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.10284 of 2021
and W.M.P. No.10876 of 2021

1.D.Venugopal

2.C.Mohanadas

3.G.Palani

...Petitioners

Vs.

1. The Government of Tamil nadu
Rep. by its Principal Secretary,
Animal Husbandry, Dairying and Fisheries Department,
Fort St. George,
Chennai - 600 009.
2. The Commissioner of Milk Production and Dairy Development,
Madhavaram Milk Colony,
Madhavaram,
Chennai - 600 051.
3. The Deputy Registrar (Dairying)
Vengikkal Post,
Tiruvannamalai,
Tiruvannamalai District.
4. T.S.D.607 Vettagiripalayam Milk Producers
Co-operative Society,
Represented by its Secretary,
Vettagiripalayam Village, A.K. Padavedu Post,
Polur Taluk,
Tiruvannamalai District.
5. T.P.D.310 Padavedu Vettagiripalayam Milk Producers
Co-operative Society,
Represented by its Secretary,
Vettagiripalayam Village, A.K. Padavedu Post,
Polur Taluk,
Tiruvannamalai District.

...Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Declaration, declaring the order of the 3rd respondent dated 20.01.2021 bearing Na.Ka.No.109/E/2021 as illegal, arbitrary, contrary to law and consequently direct the 3rd respondent to cancel the registration of the 4th respondent.

For Petitioners : Mr.Balan Haridas

For Respondents : Mr.U.Baranidharan
Government Advocate
for R1 to R3

Mr.L.P.Shanmugasundaram
for R4

Mr.K.Rajendran for R5

ORDER

This writ petition has been filed questioning the proceedings of the 3rd respondent dated 20.01.2021 wherein the 3rd respondent has registered the 4th respondent Society to function at Vettagiripalayam Village.

2.The petitioners are the Members of the 5th respondent Society. According to the petitioners, the 5th respondent is a Milk Producers Cooperative Society at Vettagiripalayam Village. In order to substantiate this claim, the by-laws of the 5th respondent was brought to the notice of this Court and there is no serious objection on the fact that the 5th respondent was registered and functioning within the Vettagiripalayam Village.

3.The grievance of the petitioners is that the 4th respondent had applied for registration before the 3rd respondent and the 4th respondent is also a Milk Producers Cooperative Society and the registration was sought for in the same Vettagiripalayam Village. The 3rd respondent without considering the bar imposed under Section 9(1)(3) of the Tamil Nadu Cooperative Societies Act, 1983 (herein after called as "Act") proceeded to register the 4th respondent through proceedings dated 20.01.2021. Aggrieved by the same, the present writ petition has been filed before this Court.

4.Heard Mr.Balan Haridas, learned counsel appearing on behalf of the petitioners, Mr.U.Baranidharan, learned Government Advocate appearing on behalf of the respondents 1 to 3 Mr.L.P.Shanmugasundaram, learned Standing Counsel appearing on behalf of the 4th respondent and Mr.K.Rajendran, learned Standing Counsel appearing on behalf of the 5th respondent.



5.The learned Government Advocate and also the learned counsel appearing on behalf of the 4th respondent questioned the maintainability of this writ petition on the ground that there is an alternative remedy provided to the 5th respondent to raise an arbitration dispute under Section 90 of the Act. The learned counsel therefore submitted that if the petitioners and the 5th respondent are aggrieved by the registration of the 4th respondent Society by the 3rd respondent, they can only raise a dispute under Section 90 of the Act before the competent authority.

6.In the considered view of this Court, the availability of an alternative remedy is not a complete bar for exercising jurisdiction under Article 226 of the Constitution of India. It is only a self-imposed restriction of a writ Court which will depend upon the facts and circumstances of each case.

7.The case on hand involves the registration of the 4th respondent Society by the 3rd respondent and the objections that have been raised by the petitioners and the 5th respondent Society is that such a registration is in violation of Section 9 (1)(d) of the Act. For proper appreciation, Section 9(1)(d) of the Act is extracted hereunder:

9.Registration.-- (1) If the Registrar is satisfied that--

(a)...

(b)...

(c)...

(d) the area of operation of the proposed society does not overlap the area of operation of another registered society of the same class or category save as permitted by the Registrar.

8.It is clear from the above provision that the Registrar must satisfy himself that the place at which the proposed Society is sought to be located does not overlap the area of operation of another registered Society of the same class or category.

9.In the present case, the 5th respondent Society which a Milk Producers Cooperative Society has already been registered as early as in the year 1977 and the area of operation as could be seen from the by-laws also includes Vettagiripalayam Village. Under such circumstances, when the 4th respondent which also is a Milk Producers Society, submitted an application for registration before the 3rd respondent and sought for the area of operation at Vettagiripalayam Village, the 3rd respondent ought to have taken into consideration this vital fact, while



considering the application for registration of the 4th respondent Society. Both the area of operation as well as the class or category of operation was clearly overlapping with the existing 5th respondent Society. In such a case, the 3rd respondent ought not to have granted registration to the 4th respondent Society.

10. In view of undisputed facts, this Court is not inclined to drive the parties for arbitration under Section 90 of the Act and this Court deems it fit to decide the case in the present writ petition itself. Therefore, the plea of alternative remedy raised by the learned counsel appearing on behalf of the respondents 1 to 4 is hereby rejected.

11. In view of the specific bar under Section 9(1)(3) of the Act, the registration of the 4th respondent by permitting the 4th respondent to operate at the Vettagiripalayam Village is clearly illegal and the same requires the interference of this Court. In view of the same, the order of the 3rd respondent dated 20.01.2021 registering the 4th respondent Society to operate at Vettagiripalayam Village is hereby quashed. It is left open to the 4th respondent to make a fresh application to the 3rd respondent and seek for registration to carry on the operation in some other village and while considering the same, the 3rd respondent shall ensure that Section 9 of the Act is complied with.

12. In the result, this writ petition stands allowed. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

ssr
To

1. The Principal Secretary,
The Government of Tamil nadu
Animal Husbandry, Dairying and Fisheries Department,
Fort St. George,
Chennai - 600 009.



2. The Commissioner of Milk Production and Dairy Development,
Madhavaram Milk Colony,
Madhavaram,
Chennai - 600 051.

WEB COPY

3. The Deputy Registrar (Dairying)
Vengikkal Post,
Tiruvannamalai,
Tiruvannamalai District.
4. The Secretary,
T.S.D.607 Vettagiripalayam Milk Producers
Co-operative Society,
Vettagiripalayam Village, A.K. Padavedu Post,
Polur Taluk,
Tiruvannamalai District.
5. The Secretary,
T.P.D.310 Padavedu Vettagiripalayam Milk Producers
Co-operative Society,
Vettagiripalayam Village, A.K. Padavedu Post,
Polur Taluk,
Tiruvannamalai District.

+1 CC to The Government Pleader, Sr.No. 40035.

W.P No.10284 of 2021
and W.M.P. No.10876 of 2021

PMK (CO)
LS (01/09/2021)