



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.06.2021

Coram

The Honourable Mr. Justice D. KRISHNAKUMAR

W.P.No.13168 of 2021
and W.M.P.No.13977 of 2021

K.Rajendran

...Petitioner

Versus

The Deputy Registrar of Co-operative Societies,
Virudhachalam Circle,
Cuddalore District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus forbearing the respondent from proceeding under Section 87 of the Tamil Nadu Co-operative Societies Act against the petitioner pursuant to the surcharge notice Na.Ka.96/2021 Sa.Pa. dated 06.02.2021 without furnishing the copies of documents requested by the petitioner requisition letter dated 20.03.2021.

For Petitioner : Mr.M.S.Palaniswamy

For Respondents: Mr.A.Selvendran,
Government Advocate

O R D E R

(The case has been heard through video conference)

The present writ petition has been filed by the petitioner seeking to forbear the respondent from proceeding under Section 87 of the Tamil Nadu Co-operative Societies Act (hereinafter referred to as 'Act') against him pursuant to the surcharge notice Na.Ka.96/2021 Sa.Pa. dated 06.02.2021 without furnishing the copies of documents requested by him through requisition letter dated 20.03.2021.

2. The case of the petitioner is that he was working as a Secretary of II533 Kavanur Primary Agricultural Co-operative Credit Society and he was retired from service on 29.02.2020. But his retirement benefits were not yet settled to him.



2.1. While so, the respondent has issued a Surcharge Notice Na.Ka.No.96/2021 Sa.Pa. dated 06.02.2021 to the petitioner, wherein, it was stated that surcharge proceedings were initiated against the petitioner under Section 87 of the Act since he had caused loss to the society. From the said notice, the petitioner understood that two days prior to his retirement, the respondent ordered inspection under Section 82 of the Act and the inspection officer has submitted his inspection report to the respondent. Hence, the petitioner has submitted a representation dated 20.03.201 to the respondent, requesting him to furnish the copies of the documents and enquiry report dated 02.12.2020. However, the respondent did not furnish the copies of the aforesaid documents, instead of which, the respondent has issued a summon dated 25.05.2021 to the petitioner, in and by which, calling upon him to appear for enquiry on 08.06.2021. Therefore, the petitioner sent his objection dated 01.06.2021 to the respondent.

2.2. Once again, the respondent has issued a summon dated 08.06.2021 to the petitioner, calling upon him for personal hearing on 17.06.2021, for which, the petitioner made his objection dated 15.06.2021 to the respondent. Aggrieved by the act of the respondent, the petitioner has filed the present writ petition before this Court for the relief stated supra.

3. The learned counsel for the petitioner would submit that though the petitioner made a representation to the respondent, requesting him to furnish the copies of the documents and enquiry report, however, without considering the same, the respondent has issued summons to the petitioner, requesting him to appear for enquiry/personal hearing. He therefore prays this Court to issue appropriate direction to the respondent to consider the petitioner's representation and to pass orders therein.

4. The learned Government Advocate appearing for the respondent argued that the respondent vide summons dated 25.05.2021 & 08.06.2021 respectively, calling upon the petitioner to appear for enquiry, however, he did not co-operate for the enquiry and he also made his objection for the same.

5. Heard the learned counsel on both sides.

6. In the present case, the petitioner has sent a representation dated 20.03.2021, to the respondent, requesting him to furnish the copies of the documents and enquiry report dated 02.12.2020, but the respondent has not yet furnished the said documents to the petitioner.



7. It is needless to state that as per the Circular No.3/2018 (R.C.10243/2018/WPA 1) dated 25.04.2018 issued by the Registrar of Co-operative Societies, Kilpauk, Chennai, the respondent is bound to consider the petitioner's representation and to furnish the copies of the documents and enquiry report to the petitioner, so as to enable him to make his explanations before the Authority concerned.

8. Taking note of the facts and circumstances of the case, this Court directs the respondent to consider the petitioner's representation dated 20.03.2021 on merits to furnish the copies of the documents and enquiry report dated 02.12.2020, as expeditiously as possible, within a period of four weeks from the date of receipt of a copy of this order. Till such time, the respondent shall defer the surcharge proceedings initiated as against the petitioner under Section 87 of the Act.

9. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mrr

To

1.The Registrar of Co-Operative Societies,
Kilpauk, Chennai.

2.The Deputy Registrar of Co-operative Societies,
Virudhachalam Circle,
Cuddalore District.

+lcc to Mr.M.S.Palanisamy, Advocate, S.R.No.28947
+lcc to the Government Pleader, S.R.No.29369

W.P.No.13168 of 2021

PCH(CO)
CB(13/08/2021)