



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2021

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THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 14780 of 2021
and WMP.No. 15666 of 2021

R.Arumugam

..Petitioner

Vs

1. The Deputy Registrar (Credit)
Co-operative Societies Deputy Registrar Office,
2nd Floor, Kuralagam,
Chennai-600108.

2. The Managing Director,
The Vellala Teynampet Co-operative Credit
Society Ltd.,
No.34/93, Ellaiamman Colony First Street,
Vellala Teynampet,
Chennai-600086

..Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India for writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the 1st respondent in Na.Ka.No.1608/ 2021 / Sa Pal dated 24.5.2021 and 14.6.2021 and quash the same and consequently direct the 2nd respondent to revoke the order of suspension.

For Petitioner : DR.S.S.Swaminathan

For Respondents : Mr.A.Selvendran, GA- R1

Mr.Richardson Wilson - R2

O R D E R

The writ petitioner has challenged the impugned order passed by the 1st respondent dated 24.05.2021 directing the petitioner to submit his explanation for the payment of the surcharge



amount to the 2nd respondent society.

2. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the 1st respondent, the learned counsel appearing for the 2nd respondent and perused the records. As directed by this Court, Mr.J.M.Prabakaran, Senior Inspector of Cooperative Societies was present before this Court.

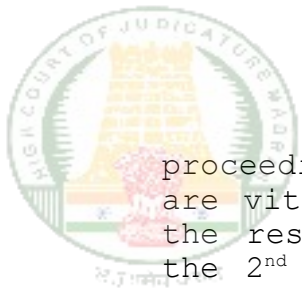
3. The learned counsel appearing for the petitioner submitted that the respondent-Society has not furnished the documents including the enquiry report to the petitioner to submit his explanation for the enquiry conducted under Section 87 of the Act. The 1st respondent without affording sufficient opportunity had initiated surcharge proceedings, violating the principles of natural justice.

4. The learned counsel appearing for the petitioner has submitted that two charge memos were issued on the same day i.e on 21.09.2020. The petitioner made representation on 29.09.2020 to furnish copy of the documents and appeared for the enquiry along with the enquiry report conducted under Section 81 of the Act. Again the petitioner made request to the 2nd respondent on 19.11.2020 and 06.01.2021. On 01.04.2020 the 2nd respondent-Society caused explanation from the petitioner, again the petitioner made representation on 09.04.2021 to furnish a copy of documents. Again the respondent-Society sent notice to the petitioner on 30.04.2021 and furnished twelve documents to the petitioner. The petitioner made representation on 04.05.2021 to the respondent-Society to furnish a copy of the enquiry report conducted under Section 81 of the Act. Without furnishing the enquiry report, the respondent has passed the impugned order dated 24.05.2021 and directed to submit explanation for the surcharge proceedings.

5. According to the learned counsel for the petitioner, the petitioner had sent seven representations to the 2nd respondent-Society to furnish enquiry report. Finally, the 2nd respondent-Society had directed the petitioner only to peruse the documents available in the office by communication dated 25.06.2021.

6. It is not disputed by the respondent that the documents were not furnished to the petitioner before issuing show cause notice for initiation of surcharge proceedings under Section 87 of the Act.

7. The main contention raised by the learned counsel appearing for the petitioner is that the respondents had not furnished the documents sought by the petitioner and so the enquiry conducted by the enquiry officer and the impugned



proceedings of the 1st respondent dated 24.05.2021 and 14.06.2021 are vitiated. From perusal of records, the petitioner requested the respondent to furnish the copy of the enquiry report, but the 2nd respondent-Society has permitted the petitioner only to peruse the records available in the office. In the communication dated 25.06.2021, the petitioner's representation was cited in the reference, therefore, it is for the 2nd respondent-Society to furnish the copy of the documents as sought for by the petitioner in his representations.

8. It is clear from the impugned order that the 2nd respondent-Society has not afforded sufficient opportunity to the petitioner by furnishing relevant documents, so as to enable him to submit his explanation to the 1st respondent. It is settled by various decisions of the Hon'ble Supreme Court and this Court that any final order passed by the authority concerned without furnishing copy of documents is liable to be quashed. Therefore, considering the facts and circumstances of the case and considering the fact the petitioner was not afforded opportunity before passing final order, this Court is inclined to issue the following directions;

- i. The impugned orders dated 24.05.2021 and 14.06.2021 passed by the 1st respondent is quashed.
- ii. 1st respondent shall furnish a copy of the documents as sought for by the petitioner in his representations dated 02.06.2021 and 25.06.2021, within a period of one week from the date of receipt of a copy of this Order.
- iii. On receipt of such documents, the petitioner shall submit his explanation before the 1st respondent within a period of three weeks thereafter.
- iv. The 1st respondent shall proceed with enquiry under Section 87 of the Act, in accordance with law and pass final orders as expeditiously as possible, within a period of eight weeks thereafter.
- v. With the above observations and direction, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

1. The Deputy Registrar (Credit)
Co-operative Societies Deputy Registrar Office,
2nd Floor, Kuralagam,
Chennai-600108.

2. The Managing Director,
The Vellala Teynampet Co-operative Credit
Society Ltd.,
No.34/93, Ellaiaimman Colony First Street,
Vellala Teynampet, Chennai-600086

+1cc to M/s.S.S.Swaminathan, Advocate, S.R.No.35489

+1cc to the Government Pleader, S.R.No.35930

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CP(CO)
CT/18/08/2021