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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.12473 of 2020
and
W.M.P.Nos.15385 and 15386 of 2020

G.Jaivigneswar

... Petitioner

-Vs-

- 1 The Commissioner
Milk Production and Dairy Development
Department, Madhavaram Milk Colony Chennai
- 2 Managing Director
Tamilnadu Cooperative Milk producers
Federatin Ltd, No.3 Pasumpon
Muthuramilingam Salai Chamiers Rd Nandanam
Chennai - 600 035.
- 3 General Manager
The Dharmapuri Dist Cooperative Milk
Producers Union Ltd, Kanagamuthu Post Salem
Main Road Krishnagiri Dt - 635 002.
- 4 Assistant General Manager Dairying
The Dharmapuri Dist Cooperative Milk
Producers Union Ltd Kanagamuthu Po Salem
Main Road Krishnagiri Dt - 635 002.
- 5 Deputy Registrar (Dairying)
Milk Production and Dairy Development
Department Kanagamuthu Po Salem Main Road
Krishnagiri Dt - 635 002.
- 6 Enquiry officer/ Senior Inspector
Kanagamuthu Post Salem Main Road
Krishnagiri District.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the 6th respondent in



enquiry report dated 03.09.2019 and proceeding pursuant thereto and quash the same as illegal and arbitrary and consequently direct the respondents 1 to 3 to conduct a fresh enquiry under section 81 of the Tamil Nadu Cooperative Societies Act 1983 in accordance with law and procedure prescribed under the Tamil Nadu cooperative Societies Act 1983.

For Petitioner : Mr.C.Vidhusan

For Respondents: Mr.U.Baranidharan,
Govt. Advocate - for RR 1,5 and 6

Mr.R.Balaramah - for RR 2, 3 and 4

O R D E R

This writ petition has been filed challenging the enquiry report submitted by the sixth respondent who was appointed as the Enquiry Officer under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 (hereinafter referred to as 'the Act').

2. When the writ petition was entertained, this Court granted interim orders on 09.03.2021 and directed the respondents to file a counter.

3. When the matter was taken up for final hearing today, it is brought to the notice of this Court that, pursuant to the report submitted by the sixth respondent, surcharge proceedings were initiated under Section 87 of the Act and as against the surcharge order passed by the fifth respondent, the petitioner filed an appeal in C.M.A.(CS) No.2 of 2020 and the same is pending on the file of the District Court, Krishnagiri.

4. In view of the above development, this Court cannot go back and consider the legality of the report submitted under Section 81 of the Act, since the same has also been questioned before the Tribunal while challenging the surcharge proceedings of the fifth respondent. Therefore, this Court does not want to parallelly go into the issue when the same can be considered by the Tribunal in the pending appeal.

5. In view of the above, this writ petition is disposed of with the following directions.

- (a) Considering the fact that the petitioner had raised the issue of bias with regard to the report



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submitted by the sixth respondent under Section 81 of the Act, the operation of the order passed by the fifth respondent in the surcharge proceedings dated 17.02.2020 shall be kept in abeyance till the appeal is disposed of by the Tribunal.

(b) The petitioner is at liberty to raise all the grounds before the Tribunal in the pending appeal including the ground of bias and for re-enquiry and the same shall be considered by the Tribunal on its own merits and in accordance with law; and

(c) There shall be a direction to the Principal District Court, Krishnagiri to pass final orders in C.M.A.(CS) No.2 of 2020 on its own merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order and such order shall be passed after affording opportunity to the parties .

6. In fine, with the above directions, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-)

//True Copy//

Sub Assistant Registrar

KST

To

- 1 The Commissioner,
Milk Production and Dairy Development
Department, Madhavaram Milk Colony,
Chennai - 600 051
- 2 The Managing Director,
Tamilnadu Cooperative Milk producers
Federation Ltd, No.3, Pasumpon
Muthuramalingam Salai, Chamiers Rd, Nandanam,
Chennai - 600 035



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- 3 The General Manager,
The Dharmapuri Dist Cooperative Milk
Producers Union Ltd, Kanagamuthu Post, Salem
Main Road, Krishnagiri Dt - 635 002
- 4 The Assistant General Manager Dairying
The Dharmapuri Dist Cooperative Milk
Producers Union Ltd, Kanagamuthu Post Salem
Main Road Krishnagiri Dt - 635 002
- 5 The Deputy Registrar (Dairying),
Milk Production and Dairy Development
Department, Kanagamuthu Post, Salem Main Road,
Krishnagiri Dt - 635 002
- 6 The Enquiry officer/ Senior Inspector,
Kanagamuthu Post, Salem Main Road
Krishnagiri District - 635 002
- 7 The Principal District Judge,
Principal District Court,
Krishnagiri.

+1cc to Mr.C.Vidhusan, Advocate, S.R.No.49894

+1cc to Mr.R.Balaramesh, Advocate, S.R.No.49851

+1cc to the Government Pleader, S.R.No.50126

W.P.No.12473 of 2020

SS (CO)
SU (05/10/2021)