



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 04.08.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH., J

W.P.NO.16309 OF 2021 &
W.M.P.NO.17274 OF 2021

P.K.Kaliappan

.. Petitioner

Vs

The Deputy Registrar,
Gobichetti Palayam Circle,
Gobichetti Palayam,
Erode district.

.. Respondent

Prayer .: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari to Call for the records of the respondent which culminated in Na.Ka.No. 2459/ 2021/ Vesa dated 31.07.2021 and quash the same.

For Petitioner : Mr.V.P.Senguttuvel for
Mr.M.A.P.Thangavel

For Respondent : Mr.A.Selvendiran
Government Advocate

O R D E R

This writ petition has been filed challenging the proceedings of the respondent dated 31.07.2021.

2. The petitioner has questioned the impugned notice issued by the respondent convening the Board meeting on 05.08.2021 at 11.00 a.m, to consider the No confidence Motion that has been circulated by nine members of the Board.

3. The petitioner had earlier approached this Court questioning the proceedings of the respondent dated 06.07.2021, wherein, a petition was submitted to initiate No Confidence motion against the petitioner and according to the petitioner, two of the members namely T.Chinnasamy and M.Kaliaymoorthy never gave any such request and they were misrepresented and their signatures were obtained without their consent.



4. For more clarity, the order passed by this Court in the earlier writ petition in WP No.15665 of 2021, dated 29.07.2021 is extracted hereunder :-

2. The petitioner is the President of Gobichettipalayam Agricultural Manufacturing Sales Society and there are 11 Directors in the society. The petitioner has recently joined as a member in Dravida Munnetra Kalagam. In view of the same, nine Directors had submitted a petition dated 05.07.2021 before the respondent to initiate "no confidence motion" against him and to disqualify him as a President of the Society. Based on the above said representation, the officials of the respondent had served a show cause notice dated 06.07.2021 to the petitioner and directed him to submit his explanation, within 15 days, otherwise, they will proceed further action as per Section 62(2) & (3) of the Tamil Nadu Co-operative Society Rules. According to the petitioner, out of 9 Directors, two of them namely Mr.T.C.Chinnasamy and Mr.M.Kaliyamoorthy had given the representation to the respondent saying that they were misrepresented and their signatures were obtained in the above representation dated 05.07.2021. Challenging the above said show cause notice dated 06.07.2021 issued by the respondent, this writ petition has been filed.

3. According to the respondent, based on the representation given by the nine Directors, show cause notice was issued to the petitioner. Further, if there is any misrepresentation by the concerned Directors, as alleged by the petitioner, the above said Directors can appear before the respondent and submit their explanations.

4. At this juncture, Mr.L.P.Shanmugasundaram, learned counsel submitted before this court that he is representing for the nine Directors, who made representation before the respondent dated 05.07.2021 and the above nine Directors had given vakalath and requested him to file appropriate impleading petition to implead them as a party to the writ petition. According to him, the writ petition filed by the petitioner is at premature stage and the allegations of the petitioner are not correct and hence, the writ petition is liable to be rejected.

5. The contravention of the above said



WEB COPY

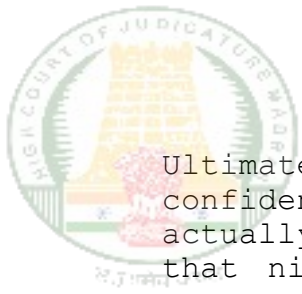
submissions and the allegations and the counter allegations of the parties shall not be looked into by this court. Admittedly, the petitioner was issued show cause notice by the respondent. As rightly pointed out by the learned counsel representing the nine Directors, the petitioner has approached this court at the premature stage. Hence, the respondent has to serve notice and proceed under Section 62(3) of the Tamil nadu Co-operative Societies Rule. Since already the nine Directors have made representation to the respondent, the next course of action to be taken by the respondent is to issue notice to convene Board Meeting under the provisions of the Tamilnadu Co-operative Societies Act.

6. In view of the above, the respondent is directed to convene the Special Board Meeting in accordance with the provisions of Law. It is needless to say that if any representation is made by the Directors namely Mr.M.Kaliyamoorthy and Mr.T.C.Chinnasamy to the respondent, the same shall be considered by the respondent in accordance with law.

5. Mr.V.P.Sengottovel, learned counsel for the petitioner submitted that the respondent has issued the impugned notice dated 31.07.2021, without complying with the specific directions issued by this Court in the earlier writ petition. The learned counsel submitted that the respondent ought to have conducted an enquiry with two directors namely T.Chinnasamy and M.Kallaiymoorthy and satisfied himself with regard to the genuineness of they having subscribed their names for the No confidence motion raised against the petitioner and only thereafter, the impugned notice ought to have been issued. Without undertaking this exercise, according to the learned counsel for the petitioner, the respondent has straight away issued the impugned notice and therefore, the same requires the interference of this Court.

6. When the matter was taken up for hearing, the learned Government Advocate appearing on behalf of respondent circulated a letter that was once again given by the nine members to the respondent on 30.07.2021. It is seen from this letter that there is a specific reference made to the order passed by this Court in WP No.15665 of 2021 and once again, all the nine members have signed the letter and have requested the respondent to convene the meeting in order to consider the No confidence motion against the petitioner.

7. In view of the above development, there is no ground to interfere with the impugned notice issued by the respondent.



Ultimately, the number of members, who are in favour of the No confidence motion will get cleared only when the meeting is actually held. As of now, there are sufficient materials to show that nine members have issued a notice calling for a meeting expressing No confidence Motion against the petitioner. Based on the same, the respondent has issued the impugned notice dated 31.07.2021 and this Court does not find any ground to interfere with the same. In the result, this writ petition is dismissed. Consequently, the connected miscellaneous petitions are closed.

s/d
Assistant Registrar

True Copy

Sub-Assistant Registrar

rka

To

The Deputy Registrar,
Gobichetti Palayam Circle,
Gobichetti Palayam,
Erode district.

+1cc to Government Pleader, Advocate, SR.No.38478

W.P.No.16309 of 2021 &
W.M.P.No.17274 of 2021

CA(CO)
PM(08/09/2021)