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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED : 08.11.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.17222 OF 2021

AND

W.M.P.NO.18235 OF 2021

D.Uma Mageswari

...Petitioner

Vs

1.The Joint Registrar of Cooperative Societies
Vellore District, Collectorate Campus
Sathuvachari, Vellore-632 001.

2.The Joint Registrar / Managing Director
District Central Cooperative Bank Ltd.,
Vellore District, Anna Salai, Vellore-632 001.

3.The Deputy Registrar of Cooperative Societies
O/o Deputy Registrar of Cooperative Societies
Vellore Region, No.6, Tulasingam Street
Sankarampalayam, Vellore-632 001.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the impugned notice issued by the 3rd respondent in Na.Ka.No.1415/2021/Sa.Pa(Sur Charge No.02/2021-2022 Sa Pa) dated 05.08.2021 (ante-dated, actually served on 11.08.2021) and to quash the same.

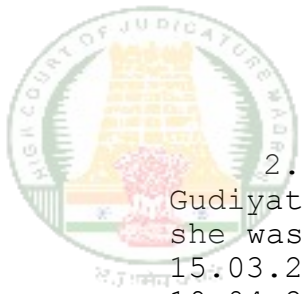
For Petitioner : Mr.G.Sankaran

For Respondents : Mr.Arun Natarajan,
Govt.Advocate - for R1& R3

Mr.S.Vinith for
Mr.U.Baranidharan,
Govt.Advocate - for R2

O R D E R

The prayer sought for herein is for a Writ of Certiorari to call for the records relating to the impugned notice issued by the 3rd respondent in Na.Ka.No.1415/2021/Sa.Pa(Sur Charge No.02/2021-2022 Sa Pa) dated 05.08.2021 and to quash the same.



2. The petitioner joined in the post of Manager in Gudiyatham Cooperative Bank Limited on 19.04.2018 and thereafter she was transferred to Thottapalayam Branch as Branch Manager on 15.03.2019. Hence, she worked in the Gudiyatham branch between 19.04.2018 and 14.03.2019 and she claims that, she had rendered unblemished service throughout her career till she reached the position of Branch Manager. When that being so, there has been an enquiry conducted under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 (in short 'the Act'). Pursuant to the completion of the Section 81 enquiry, there has been a report submitted, whereby, it is the case of the respondents that, there has been a loss to the bank concerned to the extent of Rs.97,37,070/- and in order recover the same, a surcharge proceedings under Section 87 of the Act was initiated, pursuant to which, a notice of enquiry for the surcharge proceedings was issued on 05.08.2021 fixing the date of hearing on 16.08.2021. Challenging the said notice dated 05.08.2021 the present writ petition has been filed.

3. Heard Mr.G.Sankaran, learned counsel for the petitioner, who would submit that, though already a direction was given in this regard, the Section 81 report, which in fact triggered the respondents to initiate the Section 87 Surcharge proceedings since has not been issued, that was cited as a prime reason for challenging the proposed Section 87 surcharge proceedings. Therefore, on that ground a learned Judge of this Court, by an order dated 18.08.2021, granted an interim order of stay.

4. When this writ petition is taken up for final hearing, Mr.Arun Natarajan, learned Government Advocate appearing for respondents 1 and 3 would submit that, since the only grievance of the petitioner is that Section 81 report has not been furnished to the petitioner, certainly a copy of the report would be furnished to the petitioner and only thereafter the respondents would proceed to conduct the enquiry under Section 87 surcharge proceedings.

5. In view of the said stand taken by the respondents through the learned Government Advocate appearing for the respondents that, the Section 81 enquiry report would be furnished to the petitioner shortly and without which the enquiry under Section 87 would not be conducted further, this Court is inclined to dispose of this writ petition with the following order.

- That there shall be a direction to the respondents to furnish a copy of the Section 81 report to the petitioner within a period of two weeks from the date of receipt of a copy of this order.



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- After ensuring that the said report reached the petitioner, and after getting an acknowledgement from the petitioner, summon can be issued by the respondents fixing the date of enquiry under Section 87 surcharge proceedings.

- Thereafter, on receipt of such summon, the petitioner can appear before the respondents and put forth her case defending that she is not liable to be inflicted with Section 87 surcharge proceedings, and

- Accordingly, based on merits and in accordance with law, the surcharge proceedings can be conducted and the same may be permitted to reach its logical conclusion in accordance with law within a reasonable time.

6. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

KST

To

- 1.The Joint Registrar of Cooperative Societies
Vellore District, Collectorate Campus
Sathuvachari, Vellore-632 001.
- 2.The Joint Registrar / Managing Director
District Central Cooperative Bank Ltd.,
Vellore District, Anna Salai, Vellore-632 001.
- 3.The Deputy Registrar of Cooperative Societies
O/o Deputy Registrar of Cooperative Societies
Vellore Region, No.6, Tulasingham Street
Sankarampalayam, Vellore-632 001.

+1cc to the Government Pleader, S.R.No.57859

W.P.No.17222 of 2021

SSV(CO)
RVM(23/11/2021)