



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.18656 of 2021  
and W.M.P.No.19896 of 2021

K.Karunakaran

... Petitioner

-Vs-

1. The Deputy Registrar of Cooperative Society  
Vellore Circle, Vellore.

2. The Management of the VLSPL.129  
Synampattadai Primary Agriculture  
Co-operative Credit Society, rep.by its  
Secretary / President, Synampattadai  
Katpadi Taluk, Vellore 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 relating to the impugned order passed by the 1<sup>st</sup> respondent in Surcharge No.04/2020-2021 Sa Pa dated 26.06.2021 under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983 and quash the same insofar as the petitioner is concerned and consequently remand back to the 1<sup>st</sup> respondent to hold fresh enquiry in accordance with law.

For Petitioner : Mr.L.P.Shanmugasundaram

For Respondents : Mr.A.Selvendran,  
Government Advocate

O R D E R

On consent given by either side the main writ petition itself has been taken up for final hearing.

2. The subject matter of challenge in the present writ petition pertains to the impugned order passed by the first respondent dated 26.06.2021 under Section 87 of the Tamil Nadu Cooperative Societies Act, 1983 (hereinafter referred to as 'the Act').



3. The case of the petitioner is that, he is the elected President of the second respondent Society and has been functioning in that position from the year 2018 onwards. An inquiry was initiated and a report came to be filed by the Enquiry Officer. Based on the enquiry report, surcharge proceedings were initiated and a show cause notice was also issued to the petitioner on 02.12.2020 seeking for an explanation.

4. Even in the reply to the above said show cause notice, the petitioner had requested for furnishing the enquiry report and to give an opportunity to the petitioner under Section 87(4) of the Act. The grievance of the petitioner is that, the first respondent proceeded to pass orders under Section 87 of the Act without affording opportunity to the petitioner as contemplated under Section 87 of the Act and hence the present writ petition has been filed before this Court challenging the order passed by the first respondent.

5. Heard Mr.L.P.Shanmugasundaram, learned counsel appearing for the petitioner and Mr.A.Selvendran, learned Government Advocate appearing for the first respondent.

6. A careful reading of the impugned order passed by the first respondent shows that, the enquiry report was given to the counsel who was appearing on behalf of the petitioner only at the time of the inquiry and not before that. In the considered view of this Court, the enquiry report has to be furnished even at the time when the show cause notice is issued to the petitioner to give his explanation. The law on this issue is well settled and in fact there are circulars / instructions which have been issued by the Registrar of Co-operative Societies to the effect that the enquiry report has to be furnished to the delinquent officer even at the time of issuing the show cause notice.

7. In view of the above, the proceedings of the first respondent stands vitiated for not complying with the procedure adumbrated under Section 87 of the Act. Hence, it requires the interference of this Court.

8. The learned Government Advocate appearing on behalf of the first respondent submitted that, the enquiry report has been furnished to the counsel who appeared on behalf of the petitioner during the proceedings before the first respondent.

9. Taking into consideration the facts and circumstances of the case and in view of the above reasons, the impugned proceedings of the first respondent dated 26.02.2021 is hereby quashed. The matter is remanded back to the file of the first



respondent. The first respondent shall furnish the enquiry report and all the materials relied upon, to the petitioner within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the petitioner shall give his explanation within a period of two weeks thereafter. The first respondent, on receipt of the said explanation, shall proceed further in accordance with Section 87(4) of the Act and give further opportunity to the petitioner. The final orders shall be passed by the first respondent within a period of six weeks thereafter.

10. It is made clear that, the time lines fixed by this Court must be adhered to strictly and if the petitioner fails to do so, it is left open to the first respondent to proceed further based on the available materials. This writ petition is allowed with the above directions. No costs.

Sd/-  
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Deputy Registrar of Cooperative Society  
Vellore Circle, Vellore.
2. The Management of the VLSPL.129  
Synampattadai Primary Agriculture  
Co-operative Credit Society, rep.by its  
Secretary / President, Synampattadai  
Katpadi Taluk, Vellore District.

+1CC to Government Pleader, Sr.No.45576

W.P.No.18656 of 2021

KV (CO)  
K.RK. (21.09.2021)