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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2021

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.25328 OF 2021

AND

W.M.P.NO.26756 OF 2021

Ashok Kumar

... Petitioner

-vs-

1. Registrar of Cooperative Societies,
170, EVR Road, Dr.Radhakrishnan Nagar,
Razaak Garden, SBI Officers Colony,
Arumbakkam,
Chennai - 600 106.
2. Joint Registrar of Cooperative Societies,
Thiruvannamalai Circle and Region,
District Collector's Master Plan Complex,
Vengikkal,
Thiruvannamalai - 606 604.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus to call for the records of the impugned order dated 27.10.2021 bearing number 5100/2021.SP passed by the 2nd respondent and quash the same and to hold proper enquiry within the time frame as fixed by this court.

For Petitioner : Mr.D.O.Kaviyanathan for
Nathan and Associates

For Respondents : Mr.P.Kumaresan
Advocate General Assisted by
Mrs.S.Anitha
Special Government Pleader
(Co-operative Bank)



ORDER

The prayer sought for herein, is for a writ of Certiorari to call for the records of the impugned order dated 27.10.2021 bearing number 5100/2021.SP passed by the 2nd respondent and quash the same and to hold proper enquiry.

2. The petitioner was the President of the Co-operative Society called Arani Co-operative Town Bank, against whom, an enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 (in short 'the Act') has been ordered. Pursuant to which, an interim report has been obtained by the respondents, based on which, they decided to invoke Section 76(A) of the Act to place the petitioner under suspension for a period of six months. Accordingly, by order dated 27.10.2021, orders have been passed placing the petitioner under suspension for a period of six months. Aggrieved over the same, the present writ petition has been filed.

3. After some arguments, the learned counsel for the petitioner, on instructions, would submit that, as against the impugned order dated 27.10.2021, there is an Appeal remedy provided under the Act as well. Therefore, the petitioner will make such an appeal and in case, the petitioner has made such an appeal, the Appellate Authority may dispose of the same at earliest so that the petitioner can see the light of the decision taken by the Appellate Authority before the expiry of six months period suspension as imposed in the impugned order.

4. Heard Mr.P.Kumaresan, learned Additional Advocate General assisted by Mrs.S.Anitha Special Government Pleader for Co-operative Bank, who on instructions, would submit that, the very objection raised by the respondent side is that, as against the order impugned, there is an appeal remedy provided under the Act for the petitioner. He can very well file an appeal and therefore the writ petition cannot be entertained.

5. Now in view of the stand taken by the learned counsel for the petitioner to file a appeal before the Appellate Authority , certainly it is open to him to make the said Appeal and in that case, if the Appeal is in otherwise order, on receipt of the same, the Appellate Authority would consider the same and decide it within a reasonable time to be fixed by this Court.

6. Considering the said submission made by the learned counsel for both the parties this court is inclined to dispose the writ petition with the following directions:

- (i) That it is open to the petitioner to file an Appeal before the Appellate Authority against the



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order dated 27.10.2021, within a period of two weeks from today. On receipt of such Appeal, the same shall be decided on merits and in accordance with law by the Appellate Authority within a period of eight weeks thereafter.

(ii) If at all the original impugned order filed by the petitioner is required by the learned counsel for the petitioner to file before the Appellate Authority, Registry is directed to give back the same after getting acknowledgment of the petitioner by retaining the photocopy of the same.

(iii) With these direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

rap/mp

To

1. The Registrar of Cooperative Societies,
170, EVR Road, Dr.Radhakrishnan Nagar,
Razaak Garden, SBI Officers Colony,
Arumbakkam, Chennai - 600 106.
2. The Joint Registrar of Cooperative Societies,
Thiruvannamalai Circle and Region,
District Collector's Master Plan Complex,
Vengikkal, Thiruvannamalai - 606 604.

Copy To

The Section Officer,
E.R. Section,
High Court, Madras.

(With the direction to return the original impugned order after getting acknowledgment and photocopy if required)

+1cc to M/s.Nathan and Associates, Advocate, S.R.No.64407

+1cc to the Government Pleader, S.R.No.64362

W.P. No. 25328 of 2021

NMI (CO)

RLP(06/01/2022)