



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P (MD)No.13867 of 2021

and

W.M.P. (MD) .No.10821 of 2021

WEB COPY

M.Ukkirapandi

... Petitioner

versus

1.The Deputy Registrar,
Diary Development and Milk
Production Department,
Madurai.

2.The General Manager,
A1301, Madurai District Milk Producers
Co-operative Union,
Madurai-20.

3.Mahalingam

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Mandamus, forbearing the respondents 1 and 2 from registering the new society in favour of the third respondent within the area of operation as per Bye-Law of the petitioner's society I.e., M.S.281, Jothilnayakanur Primary Milk Producers Cooperative Society, Usilampatty, Madurai District, in the light of Section 9(d) of the Tamil Nadu Cooperative Societies Act, 1983, considering the representation given by the petitioner dated 08.07.2021.

For Petitioner : Mr.A.Mithun Chakravarthi

For Respondents : Mr.R.baskaran

Counsel for the State for R1

ORDER

The petitioner seeks a mandamus to restrain the first and second respondents from registering a new society on the basis of an application submitted by the third respondent in such regard.

2. The petitioner states that he is the President of the M.S.281, Jothilnayakanur Primary Milk Producers Cooperative Societies. It is stated that the said Society has its area of operation within the revenue villages of Jothilnayakanur and Kodanginayakanpatti. The petitioner further states that the third respondent has submitted a proposal before the first respondent for registration of a new society in Jothilnayakanur village, which comes within the area of operation of the petitioner Society. The bye-laws of the petitioner Society are cited in order to establish the area of operation of the petitioner Society.



3. Mr.R.Baskaran, learned counsel for the State, accepts notice on behalf of the first respondent.

4. The petitioner refers to Section 9(d) of the Tamil Nadu Cooperative Societies Act, 1983 and contends on such basis that a newly formed society should not overlap the area of operation of another registered society of the same class or category. Hence, the petitioner seeks to restrain the first and second respondents from permitting the third respondent to register a society with an overlapping area of operation.

5. Section 9(d) of the Tamil Nadu Cooperative Societies Act 1983 is as under:

"9.Registration.-(1) If the Registrar is satisfied that-

*(d) the area of operation of the proposed society does not overlap the area of operation of another registered society of the same class or category **save as permitted by the Registrar**".*

Upon perusal of Section 9(d), it is evident that the registrar has the discretion to permit the registration of a proposed society even if the area of operation overlaps that of an existing society. However, before such decision is taken, the affected parties should necessarily be heard. In the case at hand, the petitioner has already submitted a representation on 08.07.2021.

6. Accordingly, without going into the merits of the petitioner's representation, the first respondent herein is directed to consider the petitioner's representation dated 08.07.2021 and dispose of the same by a reasoned order after providing a reasonable opportunity to the petitioner and the third respondent herein and after taking into account the objections raised by the respective parties. Such reasoned order shall be passed within a period of two months from the date of receipt of a copy of this order.

7. W.P.(MD).No.13867 of 2021 is disposed of on these terms without any order as to costs. On account of the fact that the merits of the matter have not been examined and because the first respondent is directed to hear the second respondent before passing an order, the writ petition is being disposed of without notice to the private respondents. Consequently, connected W.M.P (MD).No.10821 of 2021 is closed.

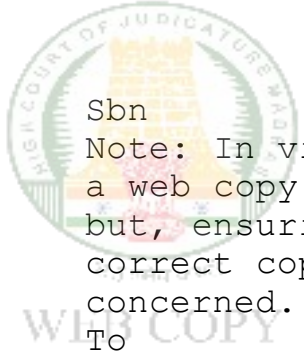
Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Sbn

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Deputy Registrar,
Diary Development and Milk
Production Department,
Madurai.

2.The General Manager,
A1301, Madurai District Milk Producers
Co-operative Union,
Madurai-20.

+1 CC to M/s.GP (SR-26052[F] dated 12/08/2021)

W.P (MD)No.13867 of 2021
and
W.M.P. (MD) .No.10821 of 2021

10.08.2021

_CN(17.08.2021) 3P 4C