



WEB COPY

W.A.(MD) No.1602 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, THE CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.A. (MD) No.1602 of 2021

and

C.M.P. (MD) No.6825 of 2021

M.S.Pandian

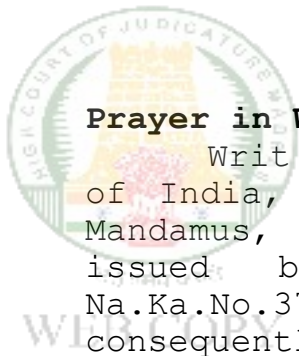
... Appellant/Writ Petitioner

Vs.

- 1.The Secretary to Government,
Co-operative Department,
Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.
- 2.The Registrar of Co-operative Societies,
N.V.Natarajan Maligai,
Kilpauk,
Chennai - 600 010.
- 3.The Joint Registrar of Cooperative Societies,
Thiruparankundram,
Pasumpon Nagar,
Madurai - 625 003.
- 4.The Deputy Registrar of Co-operative Societies,
Madurai Circle,
Madurai.
- 5.Dr.A.Jeeva,
Joint Registrar of Co-op Societies/
Managing Director,
Madurai District Central Co-operative Bank,
North Veli Street,
Madurai - 625 001.
- 6.The Secretary,
M.M.3258, B.B.Kulam Co-operative Stores,
Door No.19/12 R.S.Naidu Street,
Sellur,
Madurai - 625 002.

... Respondents/Respondents

PRAYER: Appeal under Clause 15 of the Letters Patent Act, against the order dated 09.08.2021, passed in W.P.(MD) No.13228 of 2021 on the file of this Court.



Prayer in WP(MD). 13228 of 2021 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus, call for the records pertaining to the impugned notice issued by the 4th respondent in his proceedings in Na.Ka.No.3753/2021 Nu.Ku. dated 23-07-2021 and quash the same and consequently direct the respondents to allow the petitioner to act as the Director of the 6th respondent and the board of Director/Chairman of the Madurai Dist.Central Cooperative Bank.

For Appellant : Mr.P.H.Aravindh Pandian
Senior Counsel for
Mr.Karthikeyan Anbazhagan

For Respondents : Mr.Veerakathiravan
Senior Counsel for State Govt.,
for Mr.P.Thilak Kumar,
Standing Counsel for Government

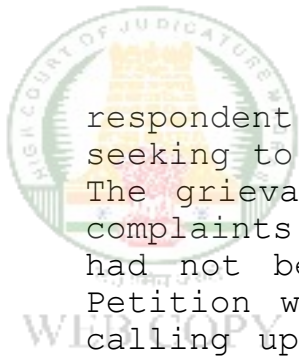
JUDGMENT

[Judgment of the Court was delivered by ***The Hon'ble Chief Justice***]

The writ petitioner is in appeal against an order of August 9, 2021, by which his challenge to a show-cause notice was repelled and the writ petitioner was asked to respond to the relevant notice.

2.In principle, the order impugned cannot be faulted. Ordinarily, a writ court is not excited to receive a petition challenging a show-cause notice since the writ petitioner has a chance to indicate his defence to the authority which had issued the notice and the relevant authority is called thereupon to decide on the matters in issue. Authoritative judicial pronouncements instruct that unless a show-cause notice reveals gross unreasonableness or *mala fides* on the face of it or the same has been issued without jurisdiction, courts would be slow in receiving challenges to the same. Indeed, a challenge to a show-cause notice is treated at par with a challenge to the first information report or criminal complaint and a challenge akin to one made under Order VII Rule 11 of the code. Unless the notice is clearly demurrable the writ court would allow the action to be played out before the appropriate authority in the relevant forum before seeking to intervene.

3.In the present case, the writ petitioner says that it was only upon the writ petitioner coming to Court with a previous petition that the authorities jumped into action against the petitioner on the basis of a stale complaint. The writ petitioner is the President of a co-operative bank. The petitioner seeks to contest the post for Director of Stores. The Respondent claims that he has the credentials to be anointed to the post. The previous petition brought by the respondent complained of the second



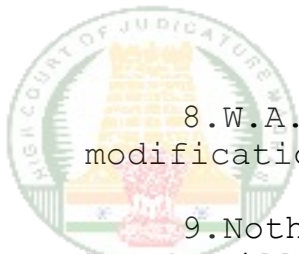
respondent to the said writ petition, W.P.(MD)No. 13037 of 2021, seeking to prevent the appellant herein from discharging his duties. The grievance of the appellant in such previous petition was that complaints made against the second respondent to the said petition had not been taken up by the appropriate authorities. Such Writ Petition was disposed of by an order of June 23, 2021, in effect calling upon the superior authorities to consider the petitioner's complaint against the second respondent to the petition.

4.The appellant now asserts not only did the appropriate authorities not take any action against the second respondent to the earlier petition, they issued the impugned show-cause notice dated July 23, 2021 by relying on a complaint that had been lying for more than a year. The petitioner alleges *mala fides* on the part of the respondent authorities and such authorities taking political and other extraneous considerations into account in seeking to act against the petitioner herein. In particular, it is the petitioner's case that the petitioner has not lost any qualification that would expose the petitioner to be proceeded against in terms of Section 23 (2)(g) of the Tamil Nadu Co-operative Societies Act, 1983. The petitioner has also drawn the court's attention to the classification and categorisation of societies under Rule 14 of the Tamil Nadu Co-operative Societies Rules, 1988 and maintains that the petitioner, who is associated with rural stores in the consumer society, cannot be said to be disqualified under the relevant provision.

5.The petitioner also seeks to suggest that the impugned notice would reveal that the relevant authority has made up its mind and the act of adjudication, so to say, upon the petitioner issuing a reply would only be an empty and idle formality.

6.In the impugned order dated August 9, 2021 the single bench took relevant considerations into account and found that no case was made out that the show-cause notice had been issued without jurisdiction or that the notice betrayed a close mind on the part of the person who had issued the notice. Since appropriate reasons have been indicated and the matter was considered in a proper perspective, the order impugned does not call for any interference.

7.However, to the extent that it is the petitioner's underlying submission that it is only because of the recent change of the political dispensation at the helm of the State that has resulted in a chain reaction of actions against persons perceived not to subscribe to the views of the present ruling party, the order that may be passed upon the petitioner's reply to the show-cause notice being received will not be given effect to for a period of seven days, if it is adverse to the petitioner. However, the continuation of the embargo will be subject to the discretion of the forum before which the petitioner questions the decision.



8.W.A.(MD)No.1602 of 2021 is disposed of with the marginal modification as indicated above.

9.Nothing in this order or in the order passed by the single bench will be held against either the petitioner or the respondent authorities herein for the purpose of assessing the petitioner's reply to the impugned show-cause notice. The petitioner's reply to the show-cause notice must be issued within a fortnight from date.

10.There will be no order as to costs. Consequently, C.M.P.(MD) No.6825 of 2021 is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MR

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 Secretary to Government,
Co-operative Department,
Government of Tamil Nadu,
Secretariat,Chennai - 600 009.
- 2.The Registrar of Co-operative Societies,
N.V.Natarajan Maligai,
Kilpauk,Chennai - 600 010.
- 3.The Joint Registrar of Cooperative Societies,
Thiruparankundram,
Pasumpon Nagar,Madurai - 625 003.
- 4.The Deputy Registrar of Co-operative Societies,
Madurai Circle,Madurai.

+1 CC to M/s.GP (SR-27060[F] dated 24/08/2021)

W.A. (MD) No.1602 of 2021

23.08.2021

RK (27.08.2021) 4P 6C