



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.12.2021

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THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .No.15614 of 2021

and

W.M.P. (MD) .No.12564 of 2021

Pechiparai and Perunchani Reservoyers
Fishermen Cooperative Society Ltd,
Represented through its former Chief Promoter,
T.Ramdoss

... Petitioner

Vs.

1.The Assistant Director of Fisheries,
Department of Fisheries,
Vadasery, Opp. Omni Bus Stand,
Nagercoil,
Kanyakumari District - 629 001.

2.P.Mohanraj
The Assistant Director/Registrar,
Fisheries and Fishermen Welfare Department
Vadasery, Opp.Omni Bus Stand,
Nagercoil,
Kanyakumari District - 629 001.

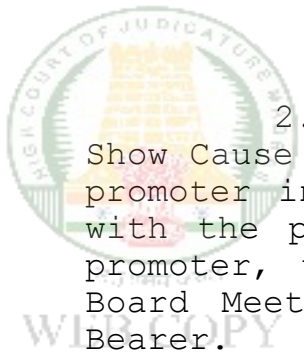
... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, direction against the Show Cause Notice issued by the respondents in Na.Ka.1690/E1/2020-1 dated 05.08.2021 in the nature of writ calling for the records on the file of the respondents and quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam
For Respondents : Mr.R.Baskaran,
Additional Advocate General,
Assisted by Mr.D.Ghandiraj,
Special Government Pleader.

ORDER

This Writ Petition has been filed in the nature of Certiorari questioning a Show Cause Notice issued by the respondents particularly the first respondent/the Assistant Director of Fisheries, Department of Fisheries in Nagercoil, Kanyakumari District in Na.Ka.1690/E1/2020-1 dated 05.08.2021 and to set aside the same.



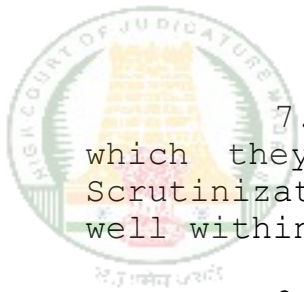
2. The petitioner, T.Ramdoss is the individual to whom the Show Cause Notice had been issued. He had been categorized as chief promoter in the Show Cause Notice. However, he has come forward with the present Writ Petition claiming that he is not the chief promoter, that he was the chief promoter and that subsequently, a Board Meeting had taken place and that he has become an Office Bearer.

3. It is therefore stated that since the Board of Management had taken over the administration of the petitioner society / Pechiparai and Perunchani Reservoyers Fishermen Cooperative Society Limited, the Show Cause Notice should be issued only to the Board of Management and not to the petitioner herein. If that be so, such a Show Cause Notice should be questioned only by the Board of Management claiming that their interests are affected and that the Show Cause Notice has been issued in the name of a stranger and that, a correct Show Cause Notice should be issued to the Board of Management recognizing their position as members of the Board of Management. But that is not the nature of writ petition.

4. The petitioner, T.Ramdoss to whom the Show Cause Notice had been issued, had filed the Writ Petition claiming that it should not have been issued to him, but in the cause title, he claims that he still represents the society as former chief promoter. The respondents can only issue notice to the society calling upon it why cancellation of registration should not be done.

5. Section 137 of the Co-operative Societies Act provides for such action to be taken even *suo motu* or on his own motion by the Registrar of the Societies. Section 137(2) provides two instances, wherein, interference with a society can be made. The first is when there is a reduction in the number of members to less than 5. The second is when there is a cessation of work or the society has stopped functioning. These are both issues of fact. They are facts which, if the society contests, then the denials must be placed before the respondents. The petitioner must first plead continuous functioning of the society and that there has been no cessation of work. They must also produce relevant records before the respondents to show that the number of members are more than required and the circumstances do not warrant interference under Section 137 (2) of the Co-operative Societies Act.

6. Therefore, in whosoever name the Show Cause Notice has been issued, the Board of Management must come forward and claim responsibility to answer the allegations. Unfortunately, the Board of Management, whether it has been elected in manner known to law by following due procedure or not, had not approached the Writ Court. Rather the same individual to whom the Show Cause Notice has been issued, has approached this Court claiming to represent the society in his category as former chief promoter. He has thus no role as on



7. This only indicates that the society is privy to facts which they do not want to be scrutinized by the respondents. Scrutinization by the respondents of the affairs of the society is well within the powers of the first respondent.

8. It is also represented by the respondents that the society is not at all functioning in the particular address and it is also stated that there are no sufficient number of members. These are the allegations which would come directly under Section 137 (2) of the Co-operative Societies Act.

9. The petitioner has a choice. He may either address the Show Cause Notice and give a reply to it by providing documents and participate in the inquiry and satisfy that the society is still functioning and that it has more than sufficient number of members and that there is no cessation of work. The petitioner also has an alternative namely, to issue a reply and a further reply through an advocate. It will only be appropriate that the petitioner discloses the names of the elected members of the Board of Management.

10. I had examined the affidavit filed in support of the present Writ Petition and that there is no other name given except the name of the deponent. The deponent claims that he is the former chief promoter of the society. The notice had been issued to the deponent of the affidavit. If an election had been conducted and if a Board had been put in place, then naturally the list of members of the Board of Management should have been given in the affidavit filed before the Court.

11. In view of these facts, I would therefore give an opportunity to the petitioner

(i) to disclose the names of all the members of the Board to the respondents.

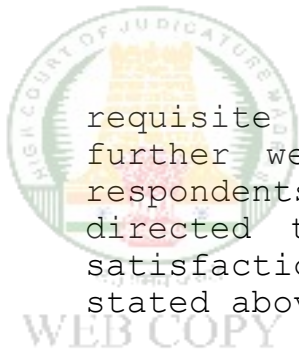
(ii) to give details of the list of members of the society.

(iii) to give the correct address of the society.

(iv) to give details of the functioning of the society.

12. The petitioner may give the details either in his capacity as former chief promoter or as present chief promoter or as any one of the elected members of the Board. He may enclose the resolution for such election being conducted with proper details and the list of duly elected Office Bearers, with all the documents.

13. When such a representation is received by the respondents, the respondents may pass necessary orders within a period of eight (8) weeks after hearing the petitioner, if a request is made for personal hearing. The petitioner is given an opportunity to give a reply within a period of two (2) weeks from the date of receipt of a copy of this order by enclosing all the



requisite documents and thereafter, within a period of eight (8) further weeks, the respondents may pass necessary orders. The respondents are at liberty to examine the representation now directed to be given by the petitioner, come to a subjective satisfaction and pass necessary orders within the time frame as stated above.

14. With the above observations, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Nsr/Lm

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 Assistant Director of Fisheries,
Department of Fisheries,
Vadasery, Opp. Omni Bus Stand,
Nagercoil,
Kanyakumari District - 629 001.

2.The Assistant Director/Registrar,
Fisheries and Fishermen Welfare Department
Vadasery, Opp.Omni Bus Stand,
Nagercoil,
Kanyakumari Distrit - 629 001.

+1 CC to M/s.V.O.S.KALAISELVAM, Advocate (SR-38740[F] dated 15/12/2021)

W.P. (MD) .No.15614 of 2021
14.12.2021

SAR(CO)

KB(28.12.2021) 4P 4C