



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) No.20900 of 2021

and W.M.P. (MD) Nos.17514 and 17515 of 2021

WEB COPY

Veeranarayanachery Primary Agricultural
Co-operative Credit Society,
Rep. by the President,
Veeranarayanachery,
Kanyakumari District.

... Petitioner

vs.

- 1.The Joint Registrar of Co-operative Societies,
Office of the Joint Registrar of Co-operative Societies,
Kanyakumari Region, Kanyakumari.
- 2.The Deputy Registrar of Co-operative Societies,
Thuckalay Circle,
Kanyakumari District.
- 3.The Co-operative Sub-Registrar/Field Officer,
Kurunthancode,
Office of the Deputy Registrar of Co-operative Societies,
Thuckalay, Kanyakumari District.
- 4.The Co-operative Sub-Registrar/Field Officer,
Killiyoor Block,
Inspection Officer U/S82 of the Tamil Nadu
Co-operative Societies Act,
Office of the Deputy Registrar of Co-operative Societies,
Thuckalay, Kanyakumari District.

... Respondents

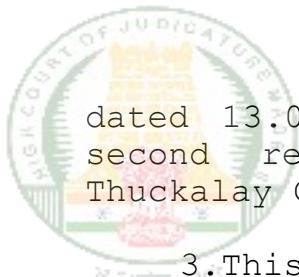
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned order in Na.Ka.No.3096/2021.Tho.Vae.Sha, dated 13.09.2021 issued by the second respondent, quash the same.

For Petitioner	:	Mr.D.Shanmugaraja Sethupathi
For Respondents	:	Mr.N.Satheeshkumar
		Additional Government Pleader

O R D E R

Heard Mr.D.Shanmugaraja Sethupathi, learned counsel appearing for the petitioner and Mr.N.Satheeshkumar, learned Additional Government Pleader, takes notice on behalf of all the respondents.

2.The present writ petition has been filed in the nature of a Writ of Certiorari, seeking interference with the impugned order



dated 13.09.2021 in Na.Ka.No.3096/2021.Tho.Vae.Sha, issued by the second respondent/Deputy Registrar of Co-operative Societies, Thuckalay Circle, Kanyakumari District.

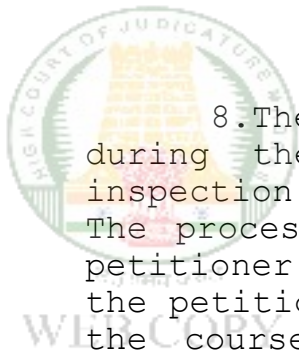
3.This an unfortunate case. The petitioner is a Co-operative Credit Society, by name, Veeranarayanachery Primary Agricultural Co-operative Credit Society. In the writ petition, it is represented by the President. The Secretary of the society was one Mrs.Ambika, who was originally working in the society, was later transferred and then later was also placed under suspension. These are all aspects, which I do not think and directly relevant to the facts of the present writ petition.

4.It is also stated that the said Secretary, had granted jewel loans to relatives and friends of the Board of Directors. In view of that particular fact, the said Secretary had been placed under suspension by the first respondent/ Joint Registrar of Co-operative Societies in Kanyakumari District.

5.However, the petitioner herein claims that the said allegations are without any substance. Whether the allegations are with substance or are without substance and matter of investigation or enquiry and *prima facie*, no statement can be made with respect to such allegations. At any rate, it is for the suspended Secretary to justify her acts and the petitioner cannot take cudgels on her behalf. Even otherwise, in the affidavit it had been further stated that the allegations had established the *malafidness* of the Board of Directors.

6.There was also another allegation with respect to the purchase of a particular brand of soap, namely, Avila Soap, which had been purchased from K.S.J.Chemicals and had been sold through the fair price shops. It is claimed by the petitioner that the said brand, Avila Soap, had been recognized by the Registrar of Co-operative Societies. It had been stated that 520 numbers of Avila Soap, had been sold to the customers with profit and sale consideration had also been credited to the account of the petitioner's society.

7.In the midst of all these facts, the impugned order came to be passed under Section 82 of the Tamil Nadu Co-operative Societies Act, 1983. The said provision only contemplates an investigation or inspection and an enquiry into various allegations raised against the particular society. It contemplates inspection of the records. It contemplates examination of the records, examination of the accounts and examination of the audit report. Thereafter, if materials are detected, it also contemplates further investigation into such records. It is only a preliminary step taken by the second respondent. There is no finding given as against the petitioner society alleging irregularity. It is only a step taken.



8.The petitioner would certainly be given every opportunity during the course of investigation and during the course of inspection to rebut any allegation as against the petitioner herein. The process has just now started. It is not the complaint of the petitioner that no opportunity is ever contemplated to be given to the petitioner herein during the course of such inspection or during the course of such enquiry. That is a step, which the second respondent, has taken, as a matter of right, when allegations are presented before the second respondent.

9.In the present case, there are two specific allegations raised, namely, that jewel loans had been given to the relatives of the Board of Directors and that a particular brand of soap had been purchased and sold in the fair price shop.

10.With respect to the first allegation of jewel loans being advanced to the relatives of the Board of Directors, the petitioner can very well produce the registers and explain the locus of the said relatives to avail jewel loan and that is no irregularity was committed by such extension of jewel loans to the relatives.

11.With respect to the purchase of Avila Soap and sales of them in fair price shops, again the petitioner can rely on any circular which recognizes purchase of Avila Soap and also impress upon the respondents that no irregularity had been committed by such purchase.

12.These are all aspects which have to be examined and the petitioner will have to present themselves before the concerned officials during the course of inspection of the records and during the course of investigation of the complaint given against the petitioner society herein. At this stage, on the basis of mere averments made in the affidavits, this Court can never come into any conclusion whether the allegations are made out or are not made out. It is purely in the domain of the respondents to come to such a conclusion and it is the duty of the petitioner to participate in the enquiry and put forth their particular case.

13.The learned counsel for the petitioner, for reasons which I do not understand, had placed reliance on the judgment of a learned Single Judge of this Court passed in a series of writ petitions which related to dissolving of societies and the learned counsel placed reliance on the statement made by the learned Advocate General that the societies would not be dissolved. The present society has not been dissolved, It is still functioning. There are allegations raised against it. Such allegations required to be enquired in public interest. That is a step which has been taken by issuing notice under Section 82 of the Act, I find that the present writ petition is preliminary in nature.



14.The Writ Petition, is therefore, dismissed with a direction to the petitioner to abide with the discretion of the second respondent during the course of inspection/investigation and participate during such exercise. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sjj

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 Joint Registrar of Co-operative Societies,
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Office of the Deputy Registrar of Co-operative Societies,
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+1 CC to M/s.D. SHANMUGARAJA SETHUPATHI, Advocate (SR-36106[F]
dated 26/11/2021)

W.P. (MD) No.20900 of 2021

and

W.M.P. (MD) Nos.17514 and 17515 of 2021

24.11.2021