



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.04.2021

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P(MD). No. 12091 of 2016

and

W.M.P(MD).No.9220 of 2016

WEB COPY

S.Ganapathy

... Petitioner

Vs.

1. The Deputy Registrar,
Co-operative Societies,
Trichy Circle, Trichy 20.

2. The Enquiry Officer,
(Co-operative Sub-Registrar
field Officer, Marungapuri)
Office of the Co-operative Deputy Registrar,
Mannarpuram, Trichy Circle,
Tiruchirappalli.

3. The President,
MM 348, Koundampatti Primary Agricultural
Co-operative Credit Society Limited,
Koundampatti, Tiruchirappalli District.

... Respondents

(Third Respondent has been impleaded vide order dated 08.04.2021 in W.M.P(MD).No.17201 of 2016)

PRAYER: Petition filed under Article 226 of the Constitution of India, for issue of Writ of Mandamus, forbearing the second respondent from passing any final order pertaining to the proceedings initiated against the petitioner under Section 81 of the Tamil Nadu Co-operative Societies Act, on the basis of the order passed by the first respondent in Na.Ka.No.4371/2015/Ve.Se.Sa, dated 05.01.2016 without furnishing the copies of the necessary documents pertaining to the charges leveled against the petitioner, as referred in the petitioner notice dated 21.06.2016.

For Petitioner	:	Mr. M.Silambarasan for Mr. R.Aravindan
For Respondents	:	Mr. M.Jeyakkumar Additional Government Pleader for R1 & R2 Mr. D.Shanmugaraja Sethupathy for R3



O R D E R

(through video conference)

Heard Mr. M.Silambarasan, Learned Counsel appearing for the Petitioner, Mr. M.Jeyakkumar, Learned Additional Government Pleader appearing for the First and Second Respondents and Mr. D.Shanmugaraja Sethupathy, Learned Counsel appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The First Respondent ordered an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the Act' for short) by Order No.Na.Ka.No.4371/2015/Ve.Se.Sa dated 05.01.2016 into the financial irregularities reported in the working of the Third Respondent. The Second Respondent, who was appointed as the Enquiry Officer in that regard, issued summons to the Petitioner, who was the Clerk and Secretary in-charge of the Third Respondent, to appear for the enquiry on 23.06.2016. The Petitioner through his Advocate sent a notice dated 21.06.2016 stating that he was not aware of the enquiry and he had not been served with copies of any papers and in the absence of the same, it would be meaningless for him to attend such enquiry. The Second Respondent by another summons dated 23.06.2016 gave details of the nature of enquiry that was conducted and required the Petitioner to appear on the next date of enquiry on 30.06.2016 in that regard. The Petitioner once again through his Advocate sent another notice dated 28.06.2016 stating that the details given in the summons was not sufficient to understand the complaint based upon which the enquiry was initiated and further wanted copies of all records that had been collected to be furnished to him for appearing in the enquiry before the Second Respondent. At that stage, the instant Writ Petition has been filed to forebear the Second Respondent from passing any final order pertaining to the proceedings initiated against the Petitioner under Section 81 of the Act on the basis of the order passed by the First Respondent in Na.Ka.No.4371/2015/Ve.Se.Sa dated 05.01.2016 without furnishing the copies of the necessary documents pertaining to the charges levelled against the Petitioner as referred in the notice dated 21.06.2016 sent by him. This Court at the time of admission on 11.07.2016 by an interim order required *status quo* to be maintained by the Respondents.

3. A mere perusal of Section 81 of the Act would show that it is in the nature of a preliminary exercise to ascertain the veracity of any complaint or information received into any financial and other irregularities in a Co-operative Society, and the Enquiry Officer has been empowered to issue summons to any person and call upon him to produce documents to enquire with him on the existence or otherwise of such irregularities. Depending upon the ultimate outcome in the Report of that enquiry as to whether irregularities had been committed, the necessity of taking rectification measures



and proceedings against the delinquent persons would thereafter fall for consideration.

4. In that view of the matter, the entire claim made by the Petitioner in his legal notices dated 21.06.2016 and 28.06.2016 and the pre-mature relief sought in the Writ Petition are totally misconceived. The Petitioner shall appear for the enquiry at 11.00 a.m. on 22.07.2021 before the Second Respondent and if it is not possible to hold enquiry on that date, it shall be informed to the Petitioner and other persons concerned of the date of hearing to which it is adjourned in the prescribed manner. In the event of the Petitioner failing to co-operate in ascertaining the truth, the Respondents are not precluded from resorting to take further appropriate steps in that regard as provided by law. Though obvious, it is made clear that no view has been expressed by this Court on the correctness or otherwise on the rival contentions of the parties, and the Second Respondent shall conduct the enquiry following the prescribed procedure in accordance with law and complete the same expeditiously.

5. In the result, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CSIII)

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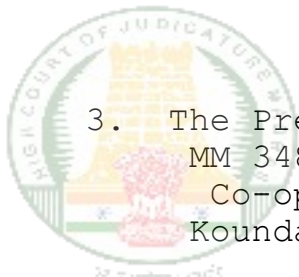
/ /2021

Sub Assistant Registrar(CS)

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,
Co-operative Societies,
Trichy Circle, Trichy 20.
2. The Enquiry Officer,
(Co-operative Sub-Registrar
field Officer, Marungapuri)
Office of the Co-operative Deputy Registrar,
Mannarpuram, Trichy Circle,
Trichy 20.



3. The President,
MM 348, Koundampatti Primary Agricultural
Co-operative Credit Society Limited,
Koundampatti, Tiruchirappalli District.

Copy to
S.Ganapathy,
S/o. Sundaram,
Yagapuram Post,
Kovilpatti Via,
Marungapuri Taluk,
Trichy District.

+1 CC to M/s.SPL GP (SR-15612[F] dated 09/04/2021)

+1 CC to M/s.D.SHANMUGARAJA SETHUPATHI, Advocate (SR-15670[F] dated 09/04/2021)

W.P(MD). No. 12091 of 2016
08.04.2021

KB(16.06.2021) 4P 7C