



WEB COPY



WP No.18101 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25-11-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

**WP No.18101 of 2018
And
WMP No.21380 of 2018**

P.Subramani

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Petitioner

vs.

- 1.The Registrar of Cooperative Societies,
Kilpauk,
Chennai – 600 010.
- 2.The Deputy Registrar of Cooperative Societies,
Office of the Deputy Registrar of Cooperative Societies,
Dharmapuri Circle,
Collectorate Complex,
Dharmapuri.
- 3.The Joint Registrar of Cooperative Societies,
Office of the Deputy Registrar of Cooperative Societies,
Dharmapuri Circle,
Collectorate Complex,
Dharmapuri.
- 4.The President,
S-993, Baisuhalli Primary
Agricultural Cooperative Credit Society,

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Matlampatti Post,
Karimangalam Taluk,
Dharmapuri District.

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Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records relating to the impugned Enquiry Notice of the third respondent in Na.Ka.No.1980/2018 Sapa dated 19.06.2018 and quash the same.

For Petitioner	: Mr.A.Ilaya Perumal
For Respondents-1 to 3	: Mr.R.P.Murugan Raja, Government Advocate.
For Respondent-4	: Mr.L.P.Shanmugasundaram

ORDER

The notice of enquiry issued by the third respondent under Section 153 (1) of the Tamil Nadu Cooperative Societies Act, in proceedings dated 19.06.2018, is sought to be quashed in the present writ petition.



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2. The petitioner was an employee of the fourth respondent-

Baisuhalli Primary Agricultural Cooperative Credit Society, which is a Cooperative Society registered under the provisions of the Tamil Nadu Cooperative Societies Act. Regarding the allegation of misappropriation of funds of the Cooperative Society to the tune of Rs.47,66,800/-, action was initiated based on the statutory enquiry conducted under Section 81 of the Tamil Nadu Cooperative Societies Act. Based on the statutory enquiry report, three fold actions are permissible under the provisions of the Tamil Nadu Cooperative Societies Act. Firstly, for recovering the financial loss caused to the Cooperative Society, surcharge proceedings shall be initiated under Section 87 of the Act, secondly, the departmental disciplinary proceedings are to be initiated against the officials concerned and thirdly, criminal action is permissible by registering a complaint before the Commercial Crime Investigation Wing of Police Department.

3. In the present case, all the three actions were taken by the Authorities Competent. Surcharge proceedings and the criminal cases are also pending. The Board of Directors were also arrayed as accused persons



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in the criminal case. Surcharge proceedings are also initiated against the then Board of Directors, who were involved in the misappropriation of funds of the Society to the huge extent.

4. As far as the writ petitioner is concerned, the departmental disciplinary proceedings were initiated and the Management of the Cooperative Society imposed the minor penalty of stoppage of increment in respect of the huge misappropriation of funds of the Cooperative Society. Thus the Joint Registrar of Cooperative Societies found that the punishment is inadequate and consequently initiated suo motu revision under Section 153 of the Tamil Nadu Cooperative Societies Act.

5. The Joint Registrar is the Competent Authority to initiate suo motu revision under Section 153 of the Tamil Nadu Cooperative Societies Act. Thus there is no impediment for the Joint Registrar for initiation of suo motu proceedings.

6. In the present case, the suo motu proceedings were initiated



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and notice of enquiry was issued by the Joint Registrar of Cooperative Societies for the purpose of providing an opportunity to the petitioner to defend his case. The present writ petition has been filed challenging the very notice.

7. No writ petition is entertainable against an enquiry notice in a routine manner. An enquiry notice/show cause notice can be challenged in the writ proceedings only if it is issued by an Incompetent Authority having no jurisdiction or such notice is tainted with the allegation of mala fides.

8. In the present case, there is no such allegation establishing the legal grounds in this regard. Therefore, the petitioner has to participate in the process of enquiry and defend his case by availing the opportunities to be provided by the Revisional Authority.

9. The power of Revisional Authority under the provisions of the Tamil Nadu Cooperative Societies Act, is quasi judicial in nature. Thus the Authorities Competent shall call for the records and examine the



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witnesses by undertaking an enquiry and pass final orders. The Revisional Authority is empowered to even call for the witnesses and call for the documents from the Cooperative Society if required for the purpose of effective adjudication.

10. This being the scope of the revision petition under Section 153 of the Tamil Nadu Cooperative Societies Act, the petitioner has to defend his case by availing the opportunities. By keeping the writ petition pending for about four years, the petitioner has already prolonged the issues. The allegation against the writ petitioner is about misappropriation of funds of the Cooperative Society to a huge extent. Therefore, further delay would cause prejudice to the interest of the members, who have invested their hard earned money in such Cooperative Societies.

11. In view of the facts and circumstances, the petitioner is at liberty to participate in the enquiry proceedings, which is to be conducted by the Revisional Authority. In this regard, the Revisional Authority is directed to continue the enquiry by affording an opportunity to all the



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parties concerned and dispose of the suo motu revision petition, within a period of two months from the date of receipt of a copy of this order. The writ petitioner is directed not to seek unnecessary adjournments on flimsy grounds. In the event of any such prolongation at the instance of the writ petitioner, he is not entitled to claim any relief merely on the ground that there is a delay in the disposal of the suo motu revision petition.

12. With the abovesaid direction, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No.

Internet : Yes/No.

Speaking Order/Non-Speaking Order.

Svn

To

1.The Registrar of Cooperative Societies,
Kilpauk,
Chennai – 600 010.

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S.M.SUBRAMANIAM, J.

Svn

2.The Deputy Registrar of Cooperative Societies,
Office of the Deputy Registrar of Cooperative Societies,
Dharmapuri Circle,
Collectorate Complex,
Dharmapuri.

3.The Joint Registrar of Cooperative Societies,
Office of the Deputy Registrar of Cooperative Societies,
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