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W.P.No. 24779 & 24781 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.24779 & 24781 of 2022 and
WMP.Nos.23705 & 23707 of 2022

V.Ramar ...Petitioner in WP.No.24779 of 2022

S.Pichaipillai ...Petitioner in WP.No.24781 of 2022

Vs.

The Joint Registrar of Co-operative Societies,
Perambalur Region,
Perambalur District.

...Respondent in both WPs

Common Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of certiorari calling for the records of the order passed by the respondent in Na.Ka.4669/2018/sa.pa dated 20.07.2022 and quash the same.

In both WPs

For Petitioner : Ms.M.S.Palaniswamy

For Respondents : Mr.R.U.Dinesh Rajkumar

Additional Government Pleader

COMMON ORDER

This common order is passed in the case of both the petitioners who claim to be the former president (petitioner in WP.No.24781 of 2022) and



W.P.No. 24779 & 24781 of 2022

Vice President/President-in-Charge (WP.No.24779 of 2022) of the Ty Spl

117 Pasumbalur Primary Agricultural co-operative Credit Society,
Pasumbalur, Vepanthathi Taluk Permabalur District (in short 'society').

2. The petitioners challenge order dated 20.07.2022 passed under Section 36 of the Tamil Nadu Co-operative Societies Act, 1983 (Act) disqualifying them from holding any post in the aforesaid society on account of lapses and dereliction in duty. The petitioners had, at the time of admission, represented that the impugned order has been passed without any opportunity of hearing and in violation of the principles of natural justice.

3. Insofar as primary documents, such as the enquiry report had not been furnished to the petitioners, the Court, was inclined to protect the petitioners for a limited period, and had directed the respondent to furnish the primary documents by way of order dated 13.09.2022 that reads as follows:

'Mr.M.Muthusamy, learned Government Advocate accepts notice for the respondent and seeks some time to obtain instructions and file a counter.

2. The matter was called in the forenoon to enable learned



Government Advocate to ascertain whether the enquiry report in terms of Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 (in short 'Act') had been furnished to the petitioners. This is for the reason that the primary grievance put forth by the petitioners is that proceedings under Section 36(1) of the Act have been commenced after the elapse of a period of four (4) years from completion of enquiry without even furnishing primary documents, such as the enquiry report.

3. When it was called in the afternoon, learned Government Advocate would confirm upon oral instructions received from the respondent officer to the effect that the relevant documents including enquiry report have not been furnished. He however would state that the impugned order and the notice issued prior thereto make copious reference to the enquiry report. This, in his view, would suffice.

4. Prima facie, I disagree. In order to enable the petitioners/noticees to mount a proper defence, it is necessary that the documents are supplied to them sufficiently in advance.

5. In response to the objection to the effect that such copies were never sought for by the petitioners, learned counsel for the petitioners would draw my attention to the Circular issued by the Registrar of



W.P.No. 24779 & 24781 of 2022

Cooperative Societies in Circular No.3/2018 dated 25.04.2018, passed consequent upon an order passed by this Court in W.P.No.2103 of 2018 dated 12.02.2019, specifically paragraph 4 thereof that requires enquiry report/inspection/investigation reports to be furnished to the noticee 'even if such person or persons have not sought for the same'.

6. Prima facie case is made out for grant of interim order. Interim stay of all further proceedings including the Special Meeting scheduled to be convened on 14.09.2022 at 11.00 a.m., effective till the next date of hearing. It is made clear the relevant copies of enquiry/investigation/inspection reports shall be furnished to the petitioners within a period of two (2) weeks from today.

7. List on 13.10.2022 at the end of admission list. Counter/written instructions by then with an advance copy served upon the petitioners.'

4. Today when the matter is called, counter has been filed by the respondent wherein he confirms, and there is no dispute in this regard, that the enquiry report has been supplied to the petitioners. The petitioners also submit that the complaint, on the basis of which the entire proceedings were triggered as well as the inspection report are yet to be furnished.

5. It is an admitted position that barring enquiry report, which has



W.P.No. 24779 & 24781 of 2022

been filed after filing of this writ petition, two documents being a copy of the complaint and the inspection report are yet to be furnished. Mr.Dinesh appearing for the respondent would accede fairly to this position.

6. The remaining two documents shall be furnished to the petitioners within two weeks from today. The petitioners have, admittedly, been receiving notices from the respondents but have not appeared for the hearings reiterating their request for furnishing of all the primary documents.

7. Thus, it is a fact that neither have the petitioners been supplied primary documents nor have they been heard prior to passing of the impugned order. This is an admitted position, in light of which, the impugned order fails and is set aside.

8. Upon receipt of the remaining documents within a period of one week from today, the petitioners will appear before the respondent on 11.11.2022 at 10.30 a.m. without awaiting any further notice in this regard. After hearing the petitioners and considering all submissions and evidences filed by them, orders shall be passed denovo within a period of four weeks thereafter i.e. on or before 12.12.2022.



W.P.No. 24779 & 24781 of 2022

DR.ANITA SUMANTH,J.

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9. These writ petitions are disposed with liberty as aforesaid. No costs.

Connected miscellaneous petitions are closed.

13.10.2022

Index : Yes/No

Speaking Order

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To

The Joint Registrar of Co-operative Societies,
Perambalur Region,
Perambalur District.

W.P.Nos.24779 & 24781 of 2022 and
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