



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.03.2022

C O R A M

THE HON'BLE MS.JUSTICE V.M.VELUMANI

W.P.No.25334 of 2021
and W.M.P.No.26751 of 2021

R.Manikandan

...Petitioner

Vs

1.The Joint Registrar of Cooperative Societies,
Thiruvanamalai Circle and Region,
District Collector's Master Plan Complex,
Vengikkal,
Thiruvanamalai - 606 604.

2.The Deputy Registrar of Cooperative Societies (Cheyyur),
SH-115, Vandhavasi Road,
Kanchipuram - 603 302.

3.The Sub Registrar Arani (North)
Bus Stand Road,
Arani Palayam,
Arani - 632 301.

... Respondents

Prayer Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Certiorarified Mandamus, to call for the impugned order vide Na.Ka.No.3816/2021 Sa.Pa dated 03.11.2021 passed by the 1st respondent and quash the same and its proceedings arising thereof and consequently to hold paper enquiry within the time fixed by this Court.

For Petitioner : Mr.Rittika
for M/s.Nathan and Associates

For R1 & R2 : Mr.P.Kumaresan
Additional Advocate General
Assisted by
Mr.S.Anitha
Special Government Pleader (Co.op)



WEB COPY

For R3

: Mr.P.Sathish
Additional Government Pleader
(Registration)

ORDER

This Writ Petition is filed seeking to call for the impugned order vide Na.Ka.No.3816/2021 Sa.Pa dated 03.11.2021 passed by the 1st respondent and quash the same and its proceedings arising thereof and consequently to hold paper enquiry within the time fixed by this Court.

2.Heard the learned counsel appearing for the petitioner as well as Mr.P.Kumaresan, learned Additional Advocate General, Assisted by Mr.S.Anitha, learned Special Government Pleader appearing for the respondents 1 & 2 and Mr.P.Sathish, learned Additional Government Pleader (Registration) appearing for the 3rd respondent.

3.According to the petitioner, he is the president of M/s.Devikapuram Primary Agriculture Cooperative Loan Society. The petitioner and other members discharged their duties with utmost care and responsibility. The petitioner has earned good reputation among the members of the Society and general public. Some Political elements who did not like the reputation earned by the petitioner, taken steps to spoil the image and goodwill of the petitioner. In view of the same, the 2nd respondent passed orders to conduct inspection and enquiry against the Society to find out if there is any mismanagement in the business and directed the 3rd respondent to conduct an enquiry. The petitioner and others co-operated for the said enquiry and also produced various documents to the 3rd respondent - Enquiry Officer. The 3rd respondent without considering the documents produced by the petitioner based on the preconceived notion that there is fault on behalf of the petitioner concluded that there are serious violations of law in the business. Based on the enquiry conducted by the 3rd respondent, the 1st respondent issued impugned notice under Section 88(1) of the Tamil Nadu Cooperative Societies Act (hereinafter referred as 'the Act'), calling the petitioner and others to show cause as to why Board of the Society should not be superseded. The petitioner has submitted his explanation, however, the 1st respondent without considering the said explanation issued summon on 03.11.2021 for appearance of personal hearing on 12.11.2021. Both the notice and summon issued under Section 88(1) of the Act is in violation of principles of natural justice and has issued only due to



influence of fringe and political elements. With malafide intention, the 1st respondent has initiated proceedings. The report under Section 88(1) of the Act itself is invalid, as the enquiry was not completed within 90 days as contemplated under the Act. The Hon'ble Apex Court and this Court have held that if there is any violation of principles of natural justice, the notice and summons issued has to be quashed and prayed for allowing of the Writ Petition.

4.Mr.P.Kumaresan, learned Additional Advocate General appearing for the respondents 1 and 2 submitted that as per the notice, the petitioner appeared and filed statement before the 2nd respondent. The Writ Petition is not maintainable as the petitioner has challenged the notice and summon issued under Section 88(1) of the Act and prayed for dismissal of the Writ Petition.

5.From the above materials it is seen that, the petitioner has challenged the notice issued by the 1st respondent under Section 88(1) of the Act. In response to the said notice, the petitioner appeared before the respondents and submitted his explanation. The 1st respondent issued summon dated 03.11.2021 to the petitioner to appear for personal hearing for clarification. It is well settled that notice or summon issued calling to appear for enquiry can be interfered by the Court when the same was issued by the person who is not having authority to do so. Secondly, if the notice and summon has been issued with malafide intention, the Court can interfere with the notice. In such case, the petitioner should implead the person who issued notice by name and substantiate his contention of malafide. Merely stating that notice and summon issued by the 1st respondent is with malafide intention, is not sufficient to hold that the 1st respondent has acted in a malafide manner. In the present case, the petitioner has taken a stand that enquiry was conducted under Section 88(1) of the Act and the same was not completed within 90 days. The petitioner has not challenged the validity of enquiry conducted as per order issued under Section 81(1) of the Act or report submitted by the 3rd respondent. The 1st respondent by issuing impugned notice and summon gave an opportunity to the petitioner to putforth his case as to why the Board should not be dissolved. It is open to the petitioner to appear before the 1st respondent and putforth his objections before the 1st respondent. According to the Additional Advocate General, the petitioner appeared before the 1st respondent. In view of the same, the petitioner has not made out any case to set aside the impugned order.



6. With the above observations, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

WEB COPY

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

rst

To:

1. The Joint Registrar of Cooperative Societies,
Thiruvanamalai Circle and Region,
District Collector's Master Plan Complex,
Vengikkal,
Thiruvanamalai - 606 604.
2. The Deputy Registrar of Cooperative Societies (Cheyyur),
SH-115, Vandhavasi Road,
Kanchipuram - 603 302.
3. The Sub Registrar Arani (North)
Bus Stand Road,
Arani Palayam,
Arani - 632 301.

+1 CC to The Government Pleader sr 15041.

W.P.No.25334 of 2021
and W.M.P.No.26751 of 2021

MT(CO)
SP(08/04/2022)