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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WRIT PETITION NO.26489 OF 2021

AND

W.M.P.NO.27941 OF 2021

The Chennai Metropolitan Co-operative
Housing Society Limited,
No.50, Ritherdon Road,
Vepery, Chennai - 600 007,
Represented by its President,
Mr.R.Veeramani.

... Petitioner

.Vs.

1. The Joint Director of Co-operative
Audit Department,
Chennai Region, AMMA Complex,
Veterinary Hospital complex,
4th floor, No.571, Anna salai,
Nandanam, Chennai - 35.
2. The Assistant Director (North),
Co-operative Audit Department,
P.T.Lee Chengalvarayan Trust Building,
5th floor, No.807, Anna salai,
Chennai - 2.
3. The Assistant Director,
Co-operative Audit Department,
The Chennai Metropolitan Co-operative
Housing Society Limited,
No.50, Ritherdon Road,
Vepery, Chennai - 600 007.

... Respondents

PRAYER:-

Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari calling for the records of the report of the 3rd respondent namely FAM 2019-20 dated 01.12.2021 and quash the objectionable portion of PART A Item 1,2 and 3 and PART B Item 1, 2 and 3.



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For Petitioner : Mr.P.Sivamani

For Respondents : Mr.U.Baranidharan
Additional Government Pleader
(Co-op.)

O R D E R

Writ Petition is filed for issuance of a Writ of Certiorari calling for the records of the report of the 3rd respondent namely FAM 2019-2020 dated 01.12.2021 and quash the objectionable portion of PART A Item 1,2 and 3 and PART B Item 1, 2 and 3.

2. The learned counsel appearing for the petitioner submitted that the petitioner Society is implementing various housing schemes. While housing schemes implemented by the petitioner Society were pending, the Managing Director and General Manager of the Society have retired from service on attaining age of superannuation. For continuation of schemes, at the request of the petitioner, the Government permitted the petitioner to re-employ the Managing Director and General Manager. The Managing Director was re-employed with effect from 01.07.2017 and is working as Chief Executive Officer and General Manager was re-employed with effect from 01.05.2019 and is working as Administrative Officer. Their salaries were paid as per the Rules. There was no audit objection with regard to payment of salary for the year 2017 - 2018 and 2018 - 2019. When the 2nd respondent has become Assistant Director of Co-operative Audit, she prepared audit report for the year 2019 - 2020 with her objections. The same is without any jurisdiction and authority to review the Government orders. The audit objection was made with an ulterior motive to spoil the name of the Society among the depositors and general public. The learned counsel appearing for the petitioner submitted that the respondents have not followed the Rule 102(8) of the Tamil Nadu Co-operative Societies Rule in issuing audit certificate.

3. The learned Additional Government Pleader appearing for the respondents filed status report and submitted that the 1st respondent/Report Issuing Authority appointed an Officer in the cadre of Deputy Director of Co-operative Audit to check the audit report and submit his remarks on the audit objections made by the 3rd respondent and requested to submit the report on or before 31.12.2021. The Checking Officer has sought extension of time till 13.01.2022 to submit his report. After obtaining the report from the Deputy Director/Checking Officer, 1st respondent/Issuing Authority shall scrutinise the audit objections raised by the 3rd respondent and pass orders as per



the relevant by-laws of the Society and the provisions of Tamil Nadu Co-operative Societies Act and prayed for granting time to pass appropriate orders on the audit objection.

4. Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the entire materials on record.

5. The petitioner is challenging the audit objection raised in the year 2019 - 2020. Section 80 of the Tamil Nadu Co-operative Societies Act (hereinafter referred to as 'the Act') deals with audit of Co-operative Society. As per Sub-Section (7) of Section 80 of the Act, if any defect is pointed out in audit report, the Society has to rectify the same within three months and report to the Registrar. As per Sub-Section 8 of 80 of the Act, if the Society has any objection to the audit report, the Society has to make an application to the Registrar for re-audit. If the Registrar is of the opinion that re-audit is necessary, he can order for re-audit. In view of Sub-Section 8 of Section 80 of the Act, the petitioner has to approach the Registrar for re-audit raising their objections in the said application. Without availing said remedy, the petitioner has approached this Court.

6. Considering the submissions of the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and considering the provisions of Sub-Section 8 of 80 of the Act, the petitioner is given liberty to file an application to the Registrar seeking re-audit within four weeks from the date of receipt of a copy of this order. On receipt of such application, the Registrar is directed to consider the same and pass orders on merits and in accordance with law.

7. With the above directions, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Joint Director of Co-operative
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The Chennai Metropolitan Co-operative
Housing Society Limited,
No.50, Ritherdon Road,
Vepery, Chennai - 600 007.

Copy To:-

The Section Officer,
E.R. Section,
High Court, Madras.

+1cc to Mr.P.Sivamani, Advocate, S.R.No.12195
+1cc to the Government Pleader, S.R.No.12775

W.P.NO.26489 OF 2021 AND
W.M.P.NO.27941 OF 2021

GJ(CO)
PBS/17/03/2022