



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.01.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.NO.28263 OF 2021

AND

W.M.P.NO.29840 OF 2021

N.Nandhakumar

... Petitioner

-Vs-

1. The Registrar of Co-operative Societies,
No.170, NV Natarajan Maaligai,
Periyar EVR High Road,
Poonamallee High Road,
Kilpauk, Chennai - 600 010.

2. The Joint Registrar of Co-operative Societies,
Cuddalore Region,
Cuddalore.

... Respondents

PRAYER:-

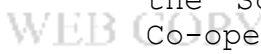
Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records of the 2nd respondent in Na.Ka.No.4076/2021 Thuvathal dated 10.11.2021, quash the same and consequently forbearing the respondents from in anyway interfering with the conduct of Board Meeting and other affairs of the petitioner's Society without following the due process of law.

For Petitioner : Mr.C.Vigneswaran

For Respondents : Mrs.S.Anitha
Special Government Pleader

ORDER

The prayer sought for herein is for a writ of certiorarified mandamus to call for the records of the 2nd respondent in Na.Ka.No. 4076 /2021 Thuvathal dated 10.11.2021, quash the same and consequently forbearing the respondents from in anyway



2. The petitioner has been functioning as the President of the Society called Narayana Nainarkuppm, Primary Agricultural Co-operative Society at Maruvai Post, Kurinjipadi Taluk, Cuddalore District. Against the petitioner as well as others, who worked in the Society or, who are in the helm of affairs of the Society concerned, there has been an inspection under Section 82 of the Tamil Nadu Co-operative Societies Act, 1983 (in short "the Act"), the Inspection Officer, after having inspected the Society, had given an interim report on 11.10.2021. Based on the interim report, a show cause notice was given to the petitioner on 18.10.2021. The petitioner also had given a reply on 09.11.2021. Having considered the same, the second respondent, by exercising his power under Section 76-A of the Act, had placed the petitioner under suspension by the impugned order dated 10.11.2021 placing him under suspension for three months period.

4. In the present case, according to the learned counsel appearing for the petitioner, no such ingredients are available as it is not under public interest and the complaints are very vague or the interim report submitted by the Inspection Officer having been not served on the petitioner, the ingredients which are essential as a pre-requisite to invoke Section 76-A of the Act are not available the invocation on the part of the respondents against the petitioner to suspend him is unlawful, he contended.

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complaints or allegations against the petitioner with regard to the mis-management or misappropriation, which since having prima facie material to the satisfaction of the Registrar concerned, who having satisfied the same, has invoked Section 76-A of the Act placed the petitioner under suspension. Hence, the learned Special Government Pleader submits that, the invocation of under Section 76-A of the Act, that too for a period of three months suspension, cannot be said to be unlawful or unjustifiable.

6. I have considered the said rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

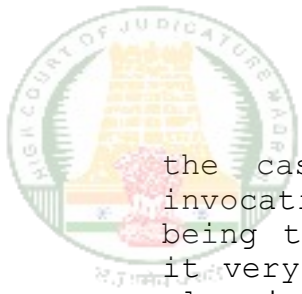
7. Insofar as Section 76-A of the Act, as has been pointed out by the learned Special Government Pleader, it is a recent amendment made by the Tamil Nadu Act 13 of 2020, with effect from 26.02.2020. Previously, no such provision is available in the said Act enabling the Department to place the elected President or Vice-President of a registered Society under suspension.

8. In order to plug the hole, the legislature thought it fit to bring Section 76-A of the Act into the statute book, under which, in the opinion of the Registrar, if there is a prima facie evidence against the President or Vice-President, he can invoke Section 76-A and place the President or Vice-President as the case may be under suspension for a period of maximum of six months or till the order is passed under Section 36 of the Act, whichever is earlier.

9. Here in the case in hand, against the petitioner i.e., the Society where he is the President of the Society, an inspection has been ordered under Section 82 of the Act and the Inspecting Officer having inspected the Society has submitted an interim report on 11.10.2021, on finding prima facie material from the said report, the second respondent had issued a notice of show cause to the petitioner on 18.10.2021, which was responded by reply dated 09.11.2021 by the petitioner.

10. Having considered all these materials only the second respondent had come to the conclusion, of course prima facie that in the interest of the Society, it become necessitated for placing the petitioner under suspension and accordingly invoking Section 76-A of the Act, the present order impugned dated 10.11.2021 has been issued placing the petitioner under suspension for a period of three months.

11. In this context, the grounds urged by the learned counsel appearing for the petitioner that, the interim report or other materials should be served on the petitioner and only in



the cases of any detrimental to the public interest, such invocation of 76-A can be made, cannot be accepted. The reason being that, the language used in Section 76-A of the Act makes it very clear that, it is not only for the public interest, but also in the interest of the Society, if it become necessitated for the Registrar to place the President or Vice-President, as the case may be, under suspension, that can be done. The only requirement is, there must be a prima facie evidence against the President or Vice-President and the Registrar must be in the opinion that, there is a prima facie evidence.

12. Therefore, it is the opinion and satisfaction on the part of the Registrar concerned to form an opinion prima facie that there is an evidence against the President or Vice-President and the suspension of the President or Vice-President is necessary in the interest of such Society or in the public interest, which means either in the interest of the Society or in the public interest, such an invocation of Section 76-A of the Act can be made by the Registrar merely on the satisfaction of the prima facie material against the President or Vice-President.

13. These ingredients as contemplated under Section 76-A of the Act since is very much available in this case, as has been stated by the second respondent in the impugned order that, in the interest of the Society, since the President has acted upon against the interest of the Society, it become necessitated to place him under suspension by invoking Section 76-A of the Act for a period of three months from 10.11.2021.

14. Therefore, this Court is satisfied that the invocation of Section 76-A of the Act in the present case as projected by respondent side is justifiable one and it cannot be stated that, such an invocation is against the ingredients mentioned in Section 76-A itself. Therefore, the grounds urged by the petitioner side are untenable, therefore the same are rejected. Accordingly, this Writ Petition fails, hence it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mp/Sgl



To

1. The Registrar of Co-operative Societies,
No.170, NV Natarajan Maaligai,
Periyar EVR High Road,
Poonamallee High Road,
Kilpauk, Chennai - 600 010.

2. The Joint Registrar of Co-operative Societies,
Cuddalore Region,
Cuddalore.

+1cc to the Government Pleader, S.R.No.1132

W.P.NO.28263 OF 2021

SS (CO)
PBS/28/02/2022