



W.P.No.34368 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

CORAM :

The Hon'ble Mr.JUSTICE M.SUNDAR

W.P.No.34368 of 2022

and

W.M.P.No.33827 of 2022

in

W.P.No.34368 of 2022

R.Parimelzhagan

S/o.Ranganatha Mudaliar

Chairman

Tamil Nadu Co-operative State Agriculture and

Rural Development Bank Ltd.,

No.181, Luz Church Road,

Mylapore, Chennai-600 004.

.. Petitioner

Vs.

The Deputy Registrar of Co-operative Societies (Credit)

Kuralagam

Chennai-108.

.. Respondent

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.4656/2022/Na.Va dated 31.10.2022 and quash the same.

For Petitioner

:

Mr.M.S.Palaniswamy

For Respondent

:

Mr.T.K.Saravanan

Government Advocate



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ORDER

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Captioned writ petition has been filed assailing an 'order dated 31.10.2022 bearing reference No.Na.Ka.4656/2022/Na.Va made by sole respondent' [hereinafter 'impugned order' for the sake of convenience and clarity].

2. Mr.M.S.Palaniswamy, learned counsel on record for the writ petitioner, notwithstanding very many averments in the writ affidavit predicated his campaign against the impugned order on one ground and that sole ground is, the impugned order is directed against an individual (writ petitioner) who is Chairman of 'Tamil Nadu Co-operative State Agriculture and Rural Development Bank Limited' [hereinafter 'said society' for the sake of convenience and clarity] and such an inquiry is impermissible under Section 81 of 'Tamil Nadu Co-operative Societies Act, 1983 (Tamil Nadu Act 30 of 1983)' [hereinafter 'said Act' for the sake of convenience and clarity].

3. Mr.T.K.Saravanan, learned Government Advocate (Taxes)



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accepted notice on behalf of lone respondent.

4. Owing to the limited perimeter within which the captioned matter perambulates, with the consent of learned counsel on both sides i.e., learned counsel for writ petitioner and learned State counsel, main writ petition was taken up and heard out.

5. In the light of the lone point that has been urged in writ petitioner's challenge against the impugned order, it is deemed appropriate to extract and reproduce Section 81(1) of said Act and the same reads as follows:

'81. Inquiry.- (1) The Registrar may, of his own motion and shall, on the application of a majority of the board or of not less than one-third of the members or on the request of the financing bank or of the District Collector, hold an inquiry, or direct some person authorised by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society or any alleged misappropriation, fraudulent retention of any money or property, breach of trust, corrupt practice, or mismanagement in relation to that society or



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into any particular aspect of the working of that society.

(2)

(a)

(b)

(c)

(d)

(e)

(i)

(ii)

(3)

(i)

(ii)

(iii)

(4)

(5)

(6)'

6. Impugned order, *inter alia* is predicated on allegations that vehicles purchased for official use of said society have been used for Chairman's personal work, a general council meeting held on 10.08.2022 and subjects approved therein regarding amendment and bye-laws ought to have been sent to the Deputy Registry within 60 days and though the file has been sent for approval of the Chairman, the same has not been



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signed by the Chairman. To be noted, these allegations on which the impugned order is predicated are not exhaustive and are only illustrative. It is also to be noted that the impugned order has been issued by the Deputy Registrar (Loan) {துணை பதிவாளர் (கடன்)} and both learned counsel before this Court do not dispute that there is delegation of Section 81 powers by the Registrar to the Deputy Registrar. Reverting to the sheet-anchor submission of learned counsel for writ petitioner, a careful perusal of Section 81(1) of said Act makes it clear that an inquiry can be ordered regarding any alleged misappropriation, breach of trust, corrupt practice or mismanagement in relation to a society qua said Act or into any particular aspect of the working of that society. Therefore, the argument predicated on earlier part of sub-section (1) of Section 81 of said Act that inquiry under Section 81 of said Act can be ordered only qua constitution, working and financial condition of a registered society does not hold water. Section 81(1) of said Act is made up of two limbs and the two limbs are clearly distinct. The expression 'working and financial condition of a registered society' and the other expression 'any alleged misappropriation, fraudulent retention of any money or property, breach



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of trust, corrupt practice or mismanagement in relation to that society or into any particular aspect of working of that society' are connected by 'or' and not 'and'. This means these two expressions are not conjunctive. This leads this Court to the sequitur that while Section 81 of said society empowers the Registrar (in this case, sole respondent who is undisputedly delegatee of Registrar) to hold an inquiry into constitution, working and financial condition of the registered society, it also empowers the Registrar to order inquiry into any alleged misappropriation, fraudulent retention of any money or property, breach of trust, corrupt practice or mismanagement in relation to that society or into any particular aspect of working of that society. To be noted, it is also clear from a plain reading of sub-section (1) of Section 81 of said Act that such inquiry can be ordered by the Registrar (a) on his own motion, (b) on the application of a majority of the board or of not less than one-third of the members (c) request of the financing bank or of the District Collector. It may not be necessary to go into adumbration as it is clear that the Registrar can order such an inquiry 'on his own motion'. It is also to be noted that delegation of these powers by the Registrar to the Deputy



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Registrar is neither in dispute nor is it subject matter of contestation before this Court.

7. Learned counsel on both sides very fairly submitted that the aforementioned argument has not come up for consideration in any other matter in this Court earlier. In other words, there are no precedents and therefore, it is an innovative argument that has been advanced by learned counsel for writ petitioner. In the considered view of this Court, it may be innovative but it does not hold water in the light of interpretation of the language in which sub-section (1) of Section 81 of said Act is couched. To be noted, interpretation has been alluded to and delineated elsewhere supra in this order by this Court.

8. This Court is also informed that an inquiry is to be held at half past two today. The inquiry can proceed and there is no reason to intercede qua the impugned order which is dated 31.10.2022. This Court refrains itself from elaborating further and saying that this appears to be an Eleventh hour attempt to scuttle the inquiry. Let the inquiry proceed.



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The sequitur is, captioned Writ Petition is dismissed. Consequently, connected writ miscellaneous petition is closed. There shall be no order as to costs.

22.12.2022

Index: Yes/No
Speaking / Non-speaking order

mk

To,

The Deputy Registrar of Co-operative Societies (Credit)
Kuralagam
Chennai-108.



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M.SUNDAR, J.,

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