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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.NO.27373 OF 2017

AND

W.M.P.NOS.29271 & 29272 OF 2017

K.Vinothkumar

... Petitioner

.Vs.

1. The Joint Registrar of
Cooperative Societies,
Cuddalore Region,
Cuddalore District.

2. The Deputy Registrar of
Cooperative Societies,
Virudhachalam Circle,
Virudhachalam,
Cuddalore District.

3. The Enquiry Officer,
Seppakkam Primary Agricultural Coop.
Credit Society, Seppakkam,
Veppur Taluk, Cuddalore District.
O/o. Deputy Registrar of
Cooperative Societies,
Virudhachalam Circle,
Virudhachalam,
Cuddalore District.

... 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 entire records relating to the impugned enquiry report submitted by the 3rd respondent in report No. Nil, dated 06.09.2017 to the 2nd respondent and quash the same.



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For Petitioner : Mr.C.Prakasam
For RR 1 & 2 : Mr.S.Prabhakaran
Government Advocate
For R3 : Mr.L.P.Shanmugasundaram

O R D E R

This Writ Petition is filed for issuance of Writ of Certiorari to call for the entire records relating to the impugned enquiry report submitted by the 3rd respondent in report No. Nil, dated 06.09.2017 to the 2nd respondent and quash the same.

2. The petitioner is member of Seppakkam Primary Agricultural Coop. Credit Society, Seppakkam, Veppur Taluk, Cuddalore District. He availed agricultural loan for establishing poultry farm. After loan being sanctioned and disbursed, he established poultry farm, but incurred heavy loss and could not re-pay the loan taken by him. The Government announced waiver of agricultural loan and constituted a committee for preparing the beneficiaries list, who are all eligible to avail the benefits. After verification of the records, the committee made recommendation to the District Central Cooperative Bank and Government that petitioner is eligible to get waiver of agricultural loan. While so, the 2nd respondent ordered enquiry under Section 81 of the Tamilnadu Cooperative Societies Act, 1983 and appointed Enquiry Officer on 28.07.2016 in respect of loan No.76, which was issued to the petitioner. The Enquiry Officer after conducting enquiry, gave a report dated 27.10.2016 stating that there is no irregularities in sanctioning loan to the petitioner as petitioner has established poultry farm as per the terms and conditions. The Government sanctioned and deposited a sum of Rs.18,00,000/- (Rupees Eighteen Lakhs Only) in the District Central Cooperative Bank as reimbursement of the loan of the petitioner. When the petitioner approached the officials, they demanded 20% of the loan waiver amount from the petitioner. The petitioner refused their illegal demand and made a complaint before the higher officials. When the petitioner was not inclined to meet out the illegal demand, the 2nd respondent appointed the 3rd respondent as Enquiry Officer to conduct enquiry under Section 81 of the Tamilnadu Cooperative Societies Act, 1983 for the very same loan No.76 for which earlier enquiry under Section 81 of the Tamilnadu Cooperative Societies Act, 1983 was conducted and report dated 27.10.2016 was submitted.



3. The learned counsel appearing for the petitioner contended that the second enquiry ordered by the 2nd respondent is illegal and invalid as it has been ordered only to harass the petitioner. The 3rd respondent without conducting any enquiry and without verifying any records, has given a report that loan sanctioned to the petitioner is irregular and loan was sanctioned in collusion with officials of the society and recommended further proceedings including criminal proceedings. Challenging the said enquiry report, the petitioner has come out with the present Writ Petition. The learned counsel further contended that the 2nd respondent has no power to order second enquiry for the very same loan sanctioned to the petitioner, for which already an enquiry was conducted and report was submitted and prayed for setting aside the report of the Enquiry Officer.

4. The respondents 1 & 2 filed counter affidavit and denied all the averments in the affidavit.

5. Mr.S.Prabhakaran, learned Government Advocate appearing for the respondents 1 & 2 submitted that the petitioner has committed fraud and obtained loan and once fraud is committed, he is not eligible for waiver of loan. The 2nd respondent has power under the Act to order another enquiry under Section 81 of the Tamilnadu Cooperative Societies Act, 1983, when there is any loss to the society. The enquiry ordered on 29.05.2017 is valid and legal, the 3rd respondent conducted the enquiry and verified all the records of the society, recorded statement of concerned persons and filed report. The report given by the 3rd respondent is not invalid and prayed for dismissal of the Writ Petition.

6. Mr.L.P.Shanmugasundaram, learned counsel appearing for the 3rd respondent submitted that the petitioner misused the power and obtained loan and used the same for his personal use without establishing poultry farm. The Enquiry Officer, the 3rd respondent as per the order of the 2nd respondent conducted the enquiry and filed report after verifying all the records and recording the statement of concerned persons. The enquiry report filed by the 3rd respondent is valid and legal and prayed for dismissal of the Writ Petition.

7. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 1 & 2 and the learned counsel appearing for the 3rd respondent and perused the entire materials on record.

8. From the materials on record, it is seen that as per G.O. (Ms).No.59 dated 28.06.2016, the committee after verification, recommended the claim of the petitioner for waiver of agricultural loan. It is not in dispute that the 2nd respondent on 28.07.2016 appointed an Enquiry Officer ordering enquiry



under Section 81 of the Tamilnadu Cooperative Societies Act, 1983. The Enquiry Officer after enquiry, submitted his report dated 27.10.2016, stating that there is no irregularities in sanctioning loan to the petitioner. According to the petitioner, when the Government deposited the amounts with Central Cooperative Banks, to be disbursed to the beneficiaries and when the petitioner sought for payment, the officials demanded 20% of the said deposited amount for disbursement of the same. There is no proof for the said contention of the petitioner. But the 2nd respondent has ordered second enquiry under Section 81 of the Tamilnadu Cooperative Societies Act, 1983 for the very same loan sanctioned to the petitioner. It is not the case of the 2nd respondent that Enquiry Officer appointed earlier did not properly conduct the enquiry and Enquiry Officer did not perform his duties as per the provisions of the Act. When the report of the Enquiry Officer is not set aside on any ground, the second enquiry ordered by the 2nd respondent for the very same issue is invalid and illegal. The 2nd respondent has no power to order second enquiry when there is a valid report submitted by the first Enquiry Officer is available.

9. In view of the above, the impugned report of the Enquiry Officer dated 06.09.2017 is quashed and the Writ Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

krk

To

1. The Joint Registrar of
Cooperative Societies,
Cuddalore Region,
Cuddalore District.
2. The Deputy Registrar of
Cooperative Societies,
Virudhachalam Circle,
Virudhachalam,
Cuddalore District.



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3. The Enquiry Officer,
Seppakkam Primary Agricultural Coop.
Credit Society, Seppakkam,
Veppur Taluk, Cuddalore District.
O/o. Deputy Registrar of
Cooperative Societies,
Virudhachalam Circle,
Virudhachalam,
Cuddalore District.

+1cc to the Government Pleader, S.R.No.15066

W.P.NO.27373 OF 2017

MG (CO)
PBS/28/03/2022