



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Writ Petition Nos.33869 & 34540 of 2019, 8307 of 2020 and 1896 of 2021  
and W.M.P.Nos.34394, 34395, 35241 & 35242 of 2019, 9961 & 9962 of 2020, 2142 & 2144 of 2021 and W.M.P.Nos.696 & 644 of 2020 and 17730 of 2021

P.Murugan .. Petitioner in all the four WPs.  
Vs.

1.Joint Registrar of Co-operative Societies  
Villupuram Region, Villupuram  
Villupuram District.

..1<sup>st</sup> Respondent in WP.33869 OF 2019

The Chairman  
Common Cadre Authority/  
Joint Registrar of Co-operative Societies  
Villupuram Region, Villupuram  
Villupuram District.

..1<sup>st</sup> Respondent in WP.34540/2019,  
8307/20,1896/2021

2.The Deputy Registrar of Co-operative Societies  
Tirukoilur Circle  
Tirukoilur  
Kallakurichi District.

3.The President  
E.1503, Arakandanallur Primary Agricultural Co-operative Credit Society  
Arakandanallur - 605 752  
Kandachipuram Taluk  
Villupuram District.

.. 2<sup>nd</sup> and 3<sup>rd</sup> Respondents in all the four WPs.

4.The Enquiry Officer/Field Officer  
Chinna Salem  
O/o.Deputy Registrar of Co-operative Societies, Tirukoilur Circle, Tirukoilur  
Kallakurichi District.

.. 4<sup>th</sup> respondent in W.P.No.1896 of 2021



Prayer in W.P.No.33869 of 2019: 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 order passed by the 3rd respondent in his proceedings No.Nil, dated 01.11.2019 and consequential order dated 12.11.2019 passed by the 3<sup>rd</sup> respondent and quash the same.

Prayer in W.P.No.34540 of 2019: 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 order passed by the 1st respondent in his proceedings Na.Ka.No.2797 of 2019 Tho.Vae.Sa., dated 02.12.2019 and consequential order passed by the 2<sup>nd</sup> respondent in his proceedings Na.Ka.3417 of 2019 Tho.Vae.Sa, dated 02.12.2019 and quash the same.

Prayer in W.P.No.8307 of 2020: 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 resolution passed by the 3<sup>rd</sup> respondent in Resolution No.1, dated 06.03.2020 and quash the same.

Prayer in W.P.No.1896 of 2021: 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 order passed by the 2nd respondent in her proceedings Na.Ka.3417/2019 Tho.Vae.Sa., dated 31.12.2020 and quash the same.

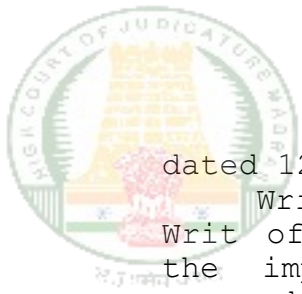
In all the four WPs.

For Petitioner : Mr.C.Prakasam  
For R1 & R2 : Mr.S.Prabhakaran  
Government Advocate  
For R3 : Mr.V.Kamaraj  
for Mr.L.P.Shanmugasundaram

In W.P.No.1896 of 2021  
For R4 : Mr.S.Prabhakaran  
Government Advocate

#### C O M M O N O R D E R

Writ Petition No.33869 of 2019 is filed for issuance of a Writ of Certiorari calling for the entire records relating to the impugned order passed by the 3rd respondent in his proceedings No.Nil, dated 01.11.2019 and consequential order



dated 12.11.2019 passed by the 3<sup>rd</sup> respondent and quash the same. Writ Petition No.34540 of 2019 is filed for issuance of a Writ of Certiorari calling for the entire records relating to the impugned order passed by the 1<sup>st</sup> respondent in his proceedings Na.Ka.No.2797/2019 Tho.Vae.Sa., dated 02.12.2019 and consequential order passed by the 2<sup>nd</sup> respondent in his proceedings Na.Ka.3417/2019 Tho.Vae.Sa, dated 02.12.2019 and quash the same.

Writ Petition No.8307 of 2020 is filed for issuance of a Writ of Certiorari calling for the entire records relating to the impugned resolution passed by the 3<sup>rd</sup> respondent in Resolution No.1, dated 06.03.2020 and quash the same.

Writ Petition No.1896 of 2021 is filed for issuance of a Writ of Certiorari calling for the entire records relating to the impugned order passed by the 2<sup>nd</sup> respondent in her proceedings Na.Ka.3417/2019 Tho.Vae.Sa., dated 31.12.2020 and quash the same.

2.The issues and parties involved in all the four Writ Petitions are one and the same and hence, the Writ Petitions are disposed of by this common order.

3.According to the petitioner, he is Secretary of the 3<sup>rd</sup> respondent Society. New Board of Directors were elected and the President of the Society insisted the petitioner to co-operate with Board of Directors for their irregularities and illegal activities. The petitioner refused to do so and informed the higher officials about the same. The authorities were contemplating ordering enquiry into the affairs of the Society, by the letter dated 01.11.2019, the 3<sup>rd</sup> respondent instructed the petitioner to hand over all the records and documents of the Society, so that they could be tampered by the 3<sup>rd</sup> respondent. When the petitioner refused to hand over the documents and records of the Society, the 3<sup>rd</sup> respondent threatened the petitioner that he would request the respondents 1 and 2 to transfer the petitioner or suspend him and sent representation dated 12.11.2019 to the 1<sup>st</sup> respondent requesting them to transfer and suspend the petitioner. The petitioner filed Writ Petition No.33869 of 2019 challenging the order of the 3<sup>rd</sup> respondent dated 01.11.2019 and 12.11.2019. This Court by the order dated 04.12.2019 granted interim stay. The learned Special Government Pleader took notice on behalf of the respondents and informed the respondents about the interim order granted in Writ Petition No.33869 of 2019. The respondents called upon the petitioner and threatened him to withdraw the Writ petition filed by him failing which, he will be transferred or suspended from service. The petitioner refused to withdraw the said Writ Petition.



3(i) The 2<sup>nd</sup> respondent on 10.12.2019 called upon the petitioner and insisted the petitioner to receive the order of transfer, which is anti-dated as 02.12.2019. The petitioner received the same mentioning the date as 10.12.2019 on which date, he received the said order. The petitioner challenging the said order filed Writ Petition No.34540 of 2019. This Court by the order dated 11.12.2019 held that order of transfer will not be given effect until further orders. In view of the two Writ Petitions filed by the petitioner and interim order granted by this Court, the 3<sup>rd</sup> respondent passed resolution dated 06.03.2020 demoting the petitioner as Assistant Secretary. Without issuing any proceedings, the 3<sup>rd</sup> respondent insisted the petitioner to work as Assistant Secretary and informed him that only the salary to the post of Assistant Secretary will be paid to him. The petitioner filed Writ Petition No.8307 of 2020 challenging the said proceedings. This Court by the order dated 16.06.2020 granted interim stay of that order.

3(ii) In view of the fact that the petitioner has filed Writ Petitions and this Court granted interim orders as stated above, the 2<sup>nd</sup> respondent has ordered an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act (hereinafter called as 'the Act') by the proceedings dated 29.11.2019. The Enquiry Officer conducted enquiry and submitted his report. While so, the 2<sup>nd</sup> respondent without furnishing the copy of the said report or taking action as per the said report, by the impugned proceedings dated 31.12.2020 again ordered enquiry under Section 81 of the Act for the very same items for which, earlier enquiry was ordered and conducted. The petitioner has filed Writ Petition No.1896 of 2021 challenging the said proceedings.

4.The learned counsel appearing for the petitioner submitted that only because he refused to co-operate with the Board of Directors of 3<sup>rd</sup> respondent for their irregularities and illegal activities, action has been taken against the petitioner, which is invalid and illegal. In view of the interim order granted by this Court on 04.12.2019 in W.P.No.33869 of 2019, the respondents transferred the petitioner by anti-dating the transfer order as 02.12.2019, which was served on the petitioner on 10.12.2019. The 3<sup>rd</sup> respondent in order to take vengeance on the petitioner for not co-operating with them and filing Writ Petitions, demoted the petitioner as Assistant Secretary. After first enquiry under Section 81 of the Act dated 29.11.2019 and report submitted by enquiry officer, the 2<sup>nd</sup> respondent ordered the present enquiry under Section 81 of the Act for the very same item, which is malafide, invalid and illegal and prayed for allowing all the four Writ Petitions.

5.The 1<sup>st</sup> respondent filed counter affidavits in W.P.Nos.33869 and 34540 of 2019 and 2<sup>nd</sup> respondent filed counter affidavit in W.P.No.1896 of 2021 along with vacate stay petitions.



6. Mr. S. Prabhakaran, the learned Government Advocate appearing for the respondents 1, 2 and 4 as well as Mr. L. P. Shanmugasundaram, learned counsel appearing for the 3<sup>rd</sup> respondent separately contended that the Board of Directors are entitled to run the Society. The petitioner did not co-operate with the Board of Directors. When 3<sup>rd</sup> respondent directed the petitioner to hand over all the documents, the petitioner, in order to escape from the irregularities committed by him, refused to hand over all the documents. Earlier, the 3<sup>rd</sup> respondent, based on the resolution has taken away the cheque signing power from the petitioner and entrusted co-signing power to one P. Annadurai, Attender of the Society. In view of the attitude of the petitioner, the 3<sup>rd</sup> respondent requested the 1<sup>st</sup> respondent to transfer the petitioner to some other Society as 1<sup>st</sup> respondent has power to transfer the petitioner. The petitioner was transferred by the order dated 02.12.2019 and was relieved from the Society. In view of the interim order granted by this Court, the petitioner is continuing with 3<sup>rd</sup> respondent Society. In the meantime, the 2<sup>nd</sup> respondent ordered enquiry under Section 81 of the Act by the order dated 29.11.2019 and appointed Field Officer, Tiruvonnainallur Block, who inspected the Society and seized all the books of accounts pertaining to enquiry under Section 81 of the Act. The respondents 1 and 2 received complaint against the petitioner and hence, the 2<sup>nd</sup> respondent ordered inspection under Section 81 of the Act. There is no error in the impugned orders and prayed for dismissal of all the four Writ Petitions.

7. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate appearing for the respondents 1, 2 and 4 and the learned counsel appearing for the 3<sup>rd</sup> respondent and perused the entire materials on record.

8. From the materials on record, it is seen that cause of action for all the four Writ Petitions started, when the 3<sup>rd</sup> respondent instructed the petitioner to hand over all the records of the Society to the Board of Directors. According to the petitioner, newly elected Board of Directors and President of the Society are committing irregularities and illegalities. He refused to co-operate for their irregularities and illegalities and gave a complaint to the higher officials. Only due to the same, the 3<sup>rd</sup> respondent instructed the petitioner to hand over all the records of the Society and also requested the 1<sup>st</sup> respondent to transfer the petitioner. At that stage, the petitioner filed Writ Petition No. 33869 of 2019 challenging the said order. The Writ Petition came up for admission on 04.12.2019. The learned Special Government Pleader took notice on behalf of the respondents at the time of admission and this Court granted interim stay. After interim stay, the respondents instructed the petitioner to withdraw the Writ Petition filed by



the petitioner and threatened him that if he fails to withdraw the Writ Petition, he would be transferred. When the petitioner refused to withdraw the Writ Petition, the 1<sup>st</sup> respondent anti-dated the order of transfer as 02.12.2019, but served the same only on 10.12.2019 to the petitioner. On the other hand, it is the case of the respondents 1 and 2 that order of transfer was passed on 02.12.2019, the petitioner was relieved and only due to interim order granted by this Court, the petitioner is being continued as Secretary of the 3<sup>rd</sup> respondent. In the counter affidavit or during the hearing, the respondents 1 and 2 have not explained as to why transfer order, which is dated 02.12.2019 was not served till 10.12.2019 before the interim stay was granted by this Court. Nothing prevented the respondents 1 and 2 to serve the transfer order to the petitioner immediately on 02.12.2019 itself. It is not the case of the respondents that the petitioner was not available in the Society from 02.12.2019 to 10.12.2019 and could not serve the transfer order immediately on 02.12.2019 or subsequently before 10.12.2019. It is the case of the petitioner that 1<sup>st</sup> respondent called the petitioner to his Office and served the transfer order on 10.12.2019. The 1<sup>st</sup> respondent has also not explained as to why petitioner was not called to his Office immediately after passing order of transfer dated 02.12.2019 and as to why he waited till 10.12.2019 to serve the order of transfer to the petitioner. In view of the above, the contention of the learned counsel appearing for the petitioner that order of transfer is anti-dated as 02.12.2019 after this Court granted interim stay on 04.12.2019 in Writ Petition No.33869 of 2019, has considerable force and acceptable. Further in the Writ Petition No.34540 of 2019 filed by the petitioner challenging the transfer order, this Court granted interim stay. Even though in the impugned order of transfer dated 02.12.2019 it has been stated that the said transfer is due to administrative reason, the said order is punitive in nature in view of the fact that the petitioner is approaching this Court by filing Writ Petition No.33869 of 2019.

9.It is pertinent to note that the President of the Society along with the petitioner as Secretary are joint signatories of cheque to carry out the activities of the Society. The 3<sup>rd</sup> respondent by resolution dated 10.12.2019 removed the petitioner as co-signatory and the said power was given to one P.Annadurai, who is an Attender in the Society. It is not in dispute that in the 3<sup>rd</sup> respondent Society apart from petitioner, other posts of Assistant Secretary, Senior Clerk, Clerk etc., are available. While so, the joint cheque signing power was given to Attender of the Society. This shows that the President of the Society wants some person as co-signatory, who will not question or object the activities of the President. Subsequently, the better sense prevailed over the President of the 3<sup>rd</sup> respondent and by



resolution dated 06.03.2020, a Senior Clerk was entrusted the power of co-signatory. All the facts narrated above and considered in its entirety, makes it clear that the respondents have colluded together and taken action against the petitioner, which cannot be sustainable in law. In view of the above, impugned order of transfer dated 02.12.2019 is liable to be set aside and is hereby set aside. Accordingly, Writ Petition No.34540 of 2019 is allowed.

10.As far as Writ Petition No.8307 of 2020 is concerned, the respondents have not filed counter affidavit. This Writ Petition is filed by the petitioner challenging the resolution of the 3<sup>rd</sup> respondent dated 06.03.2020 demoting the petitioner as Assistant Secretary. According to the petitioner, the said resolution was not followed with any proceedings demoting the petitioner as Assistant Secretary and reducing the salary of the petitioner from the post of Secretary. This case of the petitioner is not denied by the respondents. Further when this Court has granted interim stay of order of transfer dated 02.12.2019, in order to circumvent interim order granted by this Court, the 3<sup>rd</sup> respondent has passed impugned resolution, but did not issue any order to the petitioner based on the said resolution demoting the petitioner to the post of Assistant Secretary and reducing his salary. For the above reasons, the resolution of the 3<sup>rd</sup> respondent dated 06.03.2020 is quashed and Writ Petition No.8307 of 2020 is allowed.

11.As far as Writ Petition No.1896 of 2021 is concerned, the petitioner is challenging the order of the 2<sup>nd</sup> respondent dated 31.12.2020 ordering inspection under Section 81 of the Act. According to the petitioner, already the 2<sup>nd</sup> respondent ordered inspection under Section 81 of the Act for the very same items mentioned in the impugned order dated 29.11.2019 and Inspection Officer was appointed under Section 81 of the Act, he seized all the documents of the Society, conducted inspection and filed his report. From the impugned order of the 2<sup>nd</sup> respondent, it is seen that the present enquiry is ordered in respect of very same items including certain complaints alleged to have been received by the respondents. From the records of the impugned order, it is seen that complaints mentioned as items 1 to 10 in reference were available on the date of ordering first enquiry under Section 81 of the Act on 29.11.2019 itself. A reading of the reference in the impugned order dated 31.12.2020 shows that all the ten complaints alleged to have been received by the respondents were earlier to 29.11.2019, when the first enquiry was ordered under Section 81 of the Act was conducted. The respondents have not taken any action based on the said enquiry report. For the reasons best known to the respondents, the 2<sup>nd</sup> respondent has ordered second enquiry for the very same items for the second time. The 2<sup>nd</sup> respondent has no power repeatedly



to order one enquiry after another for the very same items. For the above reasons, the impugned proceedings dated 31.12.2020 is quashed and Writ Petition No.1896 of 2021 is allowed.

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12. As far as Writ Petition No.33869 of 2019 is concerned, the respondents 1 and 2 have stated that Officer appointed under Section 81 of the Act as per the order dated 29.11.2019 seized all the documents from the Society. In view of the same, Writ Petition No.33869 of 2019 has become infructuous and the same is dismissed.

13. In the result, Writ Petition Nos.34540 of 2019, 8307 of 2020 and 1896 of 2021 are allowed and Writ Petition No.33869 of 2019 is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

kj

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Chairman

Common Cadre Authority/Joint Registrar of Co-operative Societies  
Villupuram Region, Villupuram, Villupuram District.

2.The Deputy Registrar of Co-operative Societies

Tirukoilur Circle

Tirukoilur, Kallakurichi District.

3.The President

E.1503, Arakandanallur Primary Agricultural

Co-operative Credit Society

Arakandanallur - 605 752

Kandachipuram Taluk, Villupuram District.

4.The Enquiry Officer/Field Officer

Chinna Salem

O/o. Deputy Registrar of Co-operative

Societies, Tirukoilur Circle, Tirukoilur

Kallakurichi District.

+1 cc to Government Pleader Sr.NO. 16275

W.P.Nos.33869 & 34540 of 2019, 8307 of 2020 and 1896 of 2021  
and W.M.P.Nos.34394, 34395, 35241 & 35242 of 2019, 9961 & 9962  
of 2020,

2142 & 2144 of 2021 and W.M.P.Nos.696 & 644 of 2020

and 17730 of 2021

KV(CO)

A.SK(01/04/2022)