



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.[MD]No.8017 of 2022

and

W.M.P. (MD) .Nos.6002 and 6003 of 2022

Sankar,
S/o. Samivel Padayatchi,
Ex President,
Z-822 Kalamparam Primary Agricultural
Co-operative Credit Society,
Patharakudi, Kovilacherry Post,
Kumbakonam Taluk,
Thanjavur District.

... Petitioner

Vs.

1.The Registrar of Co-operative Societies,
No.170, E.V.R. Periyar High Road, Kilpauk,
Chennai-10.

2.The Deputy Registrar of Co-operative Societies,
Kumbakonam Region,
Kumbakonam, Thanjavur District.

3.The Enquiry Officer (Co-op Sub Registrar),
(U/s. 81 TN.Co.Op.Societies Act),
Office of the Deputy Registrar of Co.op.Societies),
Kumabakonam Region,
Kumbakonam, Thanjavur District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the impugned proceedings made by the second respondent in ந.க.1425/2021/ச.ப. dated 07.04.2022 and quash the same as illegal.

For Petitioner : Mr.S.R.Anbarasu

For Respondents : Mr.P.Thilak Kumar
Government Pleader

O R D E R

This Writ Petition has been filed challenging the impugned notice issued under Section 87(1) of the Tamil Nadu Cooperative Societies Act, 1983, [hereinafter referred to as 'the said Act'] based on an enquiry report under Section 81 of the said Act.



2.The petitioner has challenged the impugned order raising the following grounds:

a) The enquiry report under Section 81 of the Act should be completed within a statutory period of 90 days from the date of appointment of the enquiry officer. According to the petitioner, this mandatory provision was not followed by the enquiry officer.

b) In the enquiry proceedings under Section 81 of the Act, the enquiry officer has not taken any steps to enquire from the local Village Administrative Officer to ascertain that the borrowers for whom money was lent have raised cultivation in their respective lands or not. Without getting a report, adverse findings have been given against the petitioner by the enquiry officer appointed under Section 81 of the said Act.

c) The second respondent ought to have waited till the disposal of the batch of writ petitions filed by the borrowers before initiating surcharge proceedings against the petitioner under Section 87 of the said Act.

d) The petitioner has not been provided sufficient opportunity to defend his case during the enquiry proceedings conducted by the enquiry officer under Section 81 of the said Act.

3.On the aforementioned grounds, the petitioner has filed this writ petition. As seen from the impugned notice dated 07.04.2022, issued by the second respondent, the petitioner has been called upon to submit a reply within a period of fifteen [15] days from the date of the said notice. Without sending a reply, the petitioner has filed this writ petition, prematurely. It is settled law that only in case a notice has been issued without jurisdiction or without authority under law, a person can challenge the same by filing a writ petition. Admittedly, only based on the enquiry report submitted under Section 81 of the said Act, the surcharge proceedings has been initiated against the petitioner under Section 87 of the Act. Instead of sending a reply to the impugned notice issued under Section 87(1) of the said Act, the petitioner has filed this writ petition which is not maintainable. Therefore, the only relief that can be granted by this Court to the petitioner is to permit the petitioner to submit a reply to the impugned notice by raising the grounds that have been raised in this writ petition in the said reply and the second respondent shall consider the same on merits and in accordance with law after affording a fair hearing to the petitioner.

4.For the foregoing reasons, this writ petition is disposed of by directing the petitioner to submit a reply to the impugned notice dated 07.04.2022 to the second respondent within a period of one [1] week from the date of receipt of a copy of this order, raising the contentions that have been raised in this writ petition. On receipt of the said reply and after affording an opportunity of hearing to the petitioner, the second respondent shall pass final orders under Section 87 of the said Act.



5. With the aforesaid direction, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

MR

To

1. The Registrar of Co-operative Societies,
No.170, E.V.R. Periyar High Road, Kilpauk,
Chennai-10.
2. The Deputy Registrar of Co-operative Societies,
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3. The Enquiry Officer (Co-op Sub Registrar),
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Office of the Deputy Registrar of Co.op.Societies),
Kumabakonam Region,
Kumbakonam, Thanjavur District.

+1 CC to M/s.SPL GP. (SR-21283[F] dated 26/04/2022)

ORDER MADE IN
W.P. [MD]No.8017 of 2022
25.04.2022

PKP/16.05.2022/3P/5C