



W.A.(MD)Nos.762 and 763 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE Mrs. JUSTICE R.HEMALATHA

**W.A.(MD)Nos.762 and 763 of 2022 and
CMP(MD) Nos.6369 and 6370 of 2022**

1.The Joint Registrar of Cooperative Societies
Sivagangai District, Sivagangai

2.The Deputy Registrar of Cooperative Societies
Sivagangai Circle,
Sivagangai District
Sivagangai.

: Appellants/respondents
1&2 in both appeals

Vs.

1.P.Alagarsamy

: Respondent in
W.A.No.762

1.P.Karnan

: Respondent in
W.A.No.763

2.The President

R.S.745 Sooranam Primary Agricultural Credit
Cooperative Society

Sooranam, Ilayankudi Taluk

Sivagangai District

: Respondents in
both appeals

PRAYER: Writ Appeals are filed under Clause 15 of Letters Patent against the order dated 08.03.2022 in W.P.(MD) Nos.13044 and 13045 of 2017.



W.A.(MD)Nos.762 and 763 of 2022

For Appellants : Mr.SRA.Ramachandran
Additional Government Pleader

For Respondents : Mr.P.R.Prithviraj for R1
(in both appeals)

COMMON JUDGMENT

(Judgment of the Court was delivered by P.N.PRAKASH, J.)

Today, Mr.Muthumuneeswaran Senior Inspector, Cooperative Department is present.

2.One Karnan was working as a Secretary and one Alagarsamy was working as a Junior Clerk in R.S.No.745 Sooranam Primary Agricultural Credit and Cooperative Society, Sivagangai (hereinafter referred to as 'the Sooranam Society' for brevity). The Deputy Registrar of Cooperative Society, Sivagangai Circle, by his proceedings dated 10.05.2017 noted certain financial irregularities in the affairs of the Sooranam Society, pursuant to which, an order dated 07.07.2017 was passed by the Sooranam Society placing Karnan and Alagarsamy under suspension, pending enquiry. It appears that prior to the order of suspension, proceedings under Section 81 of the Cooperative Societies



W.A.(MD)Nos.762 and 763 of 2022

Act, 1983, (hereinafter referred to as 'the Act' for brevity) was initiated against the said Karnan, challenging which, Karnan filed W.P.(MD) No. 19221 of 2017. Challenging the orders of suspension, both Karnan and Alagarsamy filed the writ petitions in W.P.(MD) Nos.13045 and 13044 of 2017 respectively. All the three writ petitions came up before a learned Single Judge of this Court, in which, the following order was passed on 30.10.2017:

“Mr.D.Muruganantham, learned Additional Government Pleader, takes notice for the first and second respondents.

2.Notice to the third respondent, through Court and privately returnable on 27.11.2017.

3.Any decision adverse to the petitioner as ultimate outcome of disciplinary proceedings pursuant to the impugned order shall not be given effect without prior permission of this Court.”

3. A reading of the above shows that the orders of suspension were not stayed, but only a direction was given to the authorities not to take any action based on Section 81 enquiry report. In otherwords, there was no stay of the 81 enquiry and what was stayed was taking any adverse



W.A.(MD)Nos.762 and 763 of 2022

decision. While so, the Deputy Registrar of Cooperative Society issued notice under Section 87 of the Act (surcharge proceedings), which was challenged by Karnan in W.P.(MD) No.9396 of 2018, in which, a learned Single Judge of this Court passed the following order on 25.04.2018:

“When the petitioner herein had earlier challenged the enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983, this Court had passed an interim order on 30.10.2017 observing that the respondents shall not take any adverse decision without prior permission of this Court. In spite of the same, the present impugned enquiry report came to be issued without obtaining the permission of this Court. Hence, there shall be an order of interim stay for the present.

2.Mr.V.Anand, learned Government Advocate, takes notice for the respondents 1 to 3.

3.Notice to the fourth respondent returnable by 21.06.2018. Private notice is also permitted.

4.Post on 21.06.2018.”

4. Thereafter, the Deputy Registrar, Sivagangai Circle, by proceedings dated 15.06.2018 withdrew Section 87 notice for administrative reasons. While that being so, W.P.(MD) Nos.13044,



W.A.(MD)Nos.762 and 763 of 2022

13045 and 19221 of 2017 came up for final disposal before a learned Single Judge on 08.03.2022. The order dated 15.06.2018 that was passed by the Circle Deputy Registrar was brought to the notice of the learned Single Judge and it was represented to the learned Single Judge that Section 81 enquiry itself was dropped based on the communication dated 15.06.2018. The learned Single Judge recorded the contents of the communication dated 15.06.2018 in the order and has allowed the writ petitions in W.P.(MD) Nos.13044 and 13045 of 2017 quashing the orders of suspension that was passed against Karnan and Alagarsamy.

5. As regards W.P.(MD) No.19221 of 2017, the learned Judge has passed the following order:

“When the matter was taken up for hearing, the learned counsel appearing for the petitioner submitted that Section 81 enquiry report was completed. Therefore, nothing survives for adjudication.

2.Hence, the Writ Petition is dismissed as infructuous. No costs. Consequently, connected Miscellaneous Petitions are closed.”

Challenging the order dated 08.03.2022 that has been passed by the learned Single Judge in W.P.(MD) Nos.13044, 13045 of 2022, the present



W.A.(MD)Nos.762 and 763 of 2022

writ appeals have been filed by the State.

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6. Heard the learned Government Pleader appearing for the appellants State and the learned counsel for the first respondents/writ petitioners.

7. The learned Additional Government Pleader contended that the proceedings dated 15.06.2018 of the Deputy Registrar, Sivagangai Circle related to withdrawal of the notice that was issued under Section 87 of the Act (surcharge proceedings notice) and Section 81 enquiry was never dropped. In fact, even in the order of the learned Single Judge, it is mentioned that the 81 enquiry has been completed and a report has been submitted to the Deputy Registrar, Sivagangai on 16.07.2018 itself. However, the authorities were not able to proceed any further based on the enquiry report, because of the interim stay that was granted by this Court in W.P(MD) No.9396 of 2018 on 25.04.2018 (Supra). The learned Additional Government Pleader contended that the charge memo was not issued to Karnan and Alagarsamy, pursuant to the findings in the 81 enquiry, because of the interim stay in W.P.(MD) No.9396 of 2018.



W.A.(MD)Nos.762 and 763 of 2022

8. We find sufficient force in the submission of the learned Additional Government Pleader. On facts, the learned counsel for the respondents/writ petitioners fairly admitted that Section 81 enquiry has been completed, but both sides did not properly apprise the learned Single Judge that, what was dropped was only the notice under Section 87 of the Act, (surcharge notice) and nothing more. That apart, W.P. (MD) No.9396 of 2018 is still pending on the file of this Court.

9. In such view of the matter, if we admit these writ appeals and grant interim stay of the order of the learned Single Judge, Karnan and Alagarsamy will continue to be under suspension for some more period, which will be prejudicial to them. Therefore, we took up the matters for final disposal with the consent of the parties and we are of the opinion that the order of the learned Single Judge requires to be interfered with. Accordingly, these writ appeals are allowed and the order dated 08.03.2022 that has been passed by the learned Single Judge in W.P. (MD) Nos.13044 and 13045 of 2017 are set aside and the matter is remanded back to the learned Single Judge to be heard along with W.P. (MD) No.9396 of 2018. However, we do not find any infirmity in the



W.A.(MD)Nos.762 and 763 of 2022

order dated 08.03.2022 in W.P.(MD) No.19221 of 2017, inasmuch as the Section 81 enquiry has been completed as recorded therein. We request the learned single Judge to dispose of W.P.(MD) Nos.13044, 13045 of 2017 and 9396 of 2018 as expeditiously as possible, bearing in mind, the fact that Karnan and Alagarsamy have been placed under suspension, since 2017.

10. In view of the above, we direct the Registry to post W.P.(MD) Nos.13044 and 13045 of 2017 along with W.P.(MD) No.9396 of 2018 to be heard by the learned Single Judge, who is dealing with the roster concerning W.P.(MD) No.9396 of 2018. No costs. Consequently connected Miscellaneous Petitions are closed.

[P.N.P., J.] & [R.H., J.]
26.07.2022

Index : Yes/No

Internet : Yes

RR

To

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2.The Deputy Registrar of Cooperative Societies
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W.A.(MD)Nos.762 and 763 of 2022

P.N.PRAKASH, J
AND
R.HEMALATHA, J
RR

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