



W.P.(MD)No.12830 of 2022

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 23.06.2022**

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P.(MD)No.12830 of 2022**

**and**

**W.M.P(MD)No.9104 of 2022**

C.Manikandan

... Petitioner

Vs

1.The Deputy Registrar of Cooperative Societies,  
Paramakudi Circle,  
Madurai Main Road,  
Paramakudi Post and Taluk,  
Ramanathapuram District.

2.The Sec.81 Enquiry Officer,  
RR 1482 Ramanathapuram District,  
Public Work Department and Highways Department,  
Employees Coop Thrift and Credit Society,  
Paramakudi,  
Ramanathapuram District.

3.RR 1482 Ramanathapuram District,  
Public Work Department and Highways Department,  
Employees Coop Thrift and Credit Society,  
Paramakudi,  
Ramanathapuram District by its President.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the first respondent in Na.Ka.



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2138/2021 Sa.pa in S.C.No.1.2022-23 dated 20.04.2022 to quash the same and direct the first respondent to consider the representation made by the petitioner dated 30.04.2022 in accordance with law.

For Petitioner : Mr.C.G.Pethanaraj  
For Respondents : Mr.P.Thilak Kumar  
Government Pleader for R.1 & R.2

### **ORDER**

Heard the learned counsel for the writ petitioner and the learned Special Government Pleader appearing for the respondents 1 and 2.

2. The petitioner is working as an Office Assistant in the third respondent Society. He questions the impugned notice issued by the first respondent under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition. His pointed contention is that the copy of report of the enquiry issued under Section 81 of the Act was never furnished to him. Without doing so, it is not open to the first respondent to take action under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983.



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4. Per contra, the learned Special Government Pleader appearing for the respondents 1 and 2 submitted that no case is made out for interference.

5. I carefully considered the rival contentions.

6. A learned judge of this Court, vide order dated 04.03.2022 in ***W.P.(MD)No.9922 of 2021 (P.Ravi Vs The General Manager & others)*** had held that the writ Court would be justified in interfering at the show cause stage only if it can be shown that it is without jurisdiction or it is vitiated by *mala fides*. In this case, no official has been named in person and the ground of *mala fide* has not been raised. Whether the impugned notice can be said to be without jurisdiction, merely because, the petitioner was not furnished with a copy of the enquiry report, is the question raised for consideration. Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, states that if in the course of enquiry under Section 81 of the Act, the offending act had come to the notice of authority, it is open to the Authority to initiate surcharge proceedings. The statutory provision does not prescribe that without furnishing a copy of the Inquiry report under Section 81 of the Act and without seeking the petitioner's explanation, surcharge proceedings cannot be initiated. When the statute does not contemplate such a course of action, it would be inappropriate for the Court to import such requirement into statute.



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7. All the contentions of the petitioners are left open. The petitioner can very well establish his defence before the Enquiry Authority materials based on which the proceedings that have been initiated will have to be necessarily furnished to the petitioner herein. In other words, the enquiry officer will comply with the principles of natural justice and the requirements of Section 87 of the Tamil Nadu Cooperative Societies Act, 1983 before the final order is passed. When all the defences are open to the petitioner, the question of interference at the show cause notice stage does not arise at all. Leaving open the contentions of the petitioner, the writ petition is dismissed. The learned Special Government Pleader states that all the relevant documents including a copy of the Inquiry report issued under Section 87 of the Tamil Nadu Cooperative Societies Act, 1983, will be furnished to the petitioner herein. Consequently, connected miscellaneous petition is closed. No costs.

**23.06.2022**

Index : Yes / No  
Internet : Yes/ No  
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To

1.The Deputy Registrar of Cooperative Societies,  
Paramakudi Circle,  
Madurai Main Road,  
Paramakudi Post and Taluk,  
Ramanathapuram District.



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2.The Sec.81 Enquiry Officer,  
RR 1482 Ramanathapuram District,  
Public Work Department and Highways Department,  
Employees Coop Thrift and Credit Society,  
Paramakudi,  
Ramanathapuram District.

3.The President,  
RR 1482 Ramanathapuram District,  
Public Work Department and Highways Department,  
Employees Coop Thrift and Credit Society,  
Paramakudi,  
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**G.R.SWAMINATHAN, J.**

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