



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) Nos.16542 & 16543 of 2021

and

W.M.P. (MD) Nos.13422 & 13433 of 2021

WEB COPY

W.P. (MD) No.16542 of 2021:

E.Manivel

... Petitioner

vs.

1.The Managing Director
The Tamil Nadu Cooperative Milk
Producers Federation Ltd.,
Aavin Illam, Madhavaram Milk Colony
Chennai-600 051

2.The General Manager /
District Revenue Officer
A1301 Madurai District Milk
Producers Cooperative Union Ltd.,
Aavin Campus
Sathamangalam, Madurai-20

... 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 of the 2nd respondent in Na.Ka.No.2062/Tho.U/2020 dated 21.05.2020 quash the same as far as the petitioner is concerned.

For Petitioner : Mr.Shaji Chellan.L.

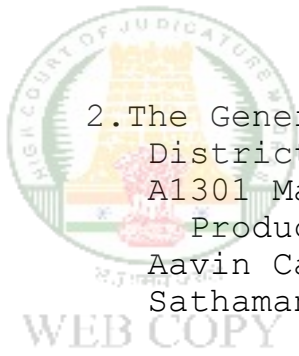
W.P. (MD) No.16543 of 2021:

P.K.Selvaraj

... Petitioner

vs.

1.The Managing Director
The Tamil Nadu Cooperative Milk
Producers Federation Ltd.,
Aavin Illam
Madhavaram Milk Colony
Chennai-600 051



2.The General Manager /
District Revenue Officer
A1301 Madurai District Milk
Producers Cooperative Union Ltd.,
Aavin Campus
Sathamangalam, Madurai-20

... 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 of the 2nd respondent in Na.Ka.No.2062/Tho.U/2020 dated 21.05.2020 quash the same as far as the petitioner is concerned.

For Petitioner : Mr.Shaji Chellan.L.

C O M M O N O R D E R

Since the issue involved in both the writ petitions are one and the same, they have been clubbed together, heard together and are being disposed of by this common order.

2. The charge memo, dated 21.05.2020, issued by the General Manager of Madurai District Milk Producers Cooperative Union Limited, is under challenge in this writ petition.

3. The Milk Producers Cooperative Union Limited is a Cooperative Society registered under the provisions of the Tamil Nadu Cooperative Societies Act, 1983 (for brevity "the Act") and not a "State" within the meaning of Article 12 of the Constitution of India. The Commissioner of Dairy Development is the functional Registrar of the said Cooperative Society under the Act.

4. The impugned charge memo has been issued based on the enquiry proceedings initiated under Section 81 of the Act in respect of the enquiry conducted to the another Society. Though the learned counsel for the petitioners raised the point of jurisdiction, the said point is to be adjudicated before the Authority Competent under the provisions of the Act.

5. In general, based on the report of the enquiry conducted under Section 81 of the Act, three fold options are permissible under the Act, namely, (i) a criminal case can be registered before the Commercial Crime Wing of the Police Department; (ii) surcharge proceedings can be initiated under Section 87 of the Act and (iii) disciplinary proceedings can be initiated under the relevant by-laws of the Society. All these three proceedings can go simultaneously as the purpose and nature of the proceedings are distinct and different. As far as the disciplinary proceedings are concerned, if at all the petitioners raises the point of jurisdiction, the same has also to be adjudicated by the Competent Authority under Section 153 of the Act. When a statutory revisional remedy is available under the Act, the said remedy is to be exhausted at all circumstances. High Court cannot entertain a writ petition in view of the fact that the Milk Producers' Union is not a State.



Furthermore, even in respect of the Organization falling under Article 12 of the Constitution of India, appellate remedy available under the statute has to be exhausted before approaching the High Court. This being the general principles to be followed, the petitioners are at liberty to approach the competent Revisional Authority under the Act in a prescribed format and in the event of filing any such revision by the petitioners, the Competent Authority shall consider the issues and pass orders on merits and in accordance with law as expeditiously as possible.

6. It is made clear that the period during which the present writ petitions were pending before this Court is to be taken into consideration for the purpose of condoning the delay and the Revisional Authority shall adjudicate the issues on merits and in accordance with law.

7. With these observations and directions, the writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

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/ /2022

Sub Assistant Registrar(CS)

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To

1.The Managing Director
The Tamil Nadu Cooperative Milk
Producers Federation Ltd.,
Aavin Illam, Madhavaram Milk Colony
Chennai-600 051

2.The General Manager /
District Revenue Officer
A1301 Madurai District Milk
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Sathamangalam, Madurai-20

+2 CC to M/s.L.SHAJI CHELLAN, Advocate (SR-13781[F] & SR-13782[F]
dated 23/03/2022)

+1 CC to M/s.SPL GP (SR-14292 & SR-14279[F] dated 24/03/2022)

W.P. (MD) Nos.16542 & 16543 of 2021

and

W.M.P. (MD) Nos.13422 & 13433 of 2021

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MGJ(31.03.2022) 3P 6C