



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.01.2022

CORAM:

THE HONOURABLE DR JUSTICE ANITA SUMANTH

W.P. (MD) No.17436 of 2018

and

W.M.P (MD) Nos.15337 and 15978 of 2018

WEB COPY

S.Muruganantham

... Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies,
Srivilliputhur Region,
Srivilliputhur Post, Virudhunagar District.

2.Mr.Ponnusamy,
Circle Supervisor of O.111, Seithur Primary
Agricultural Co-operative Bank / Field Manager,
Virudhunagar District Central Co-operative Bank,
Main Branch, Mudangiyar Road,
Rajapalayam 626 117,
Virudhunagar District. ... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of writ of Certiorari to call for the records in pursuant to the impugned order passed by the first respondent in Surcharge No.05/17-18, Na.Ka.843/17/Sa.Pa. dated 28.06.2018 and quash the same.

For Petitioner : Mr.M.Saravanakumar
For R1 : Mr.D.Sadiq Raja
Additional Government Pleader
For R2 : No appearance

O R D E R

The petitioner challenges notice dated 28.06.2018, under which charges are framed in regard to alleged wilful negligence and deficiency in the petitioner's service, calling upon him to furnish a reply within fifteen days from date of receipt thereof.

2. The primary ground upon which the notice is challenged is that the enquiry report that has been framed by the officer prior to the issuance of the impugned notice has not been served upon the petitioner. The petitioner would also raise other issues such as the incapacity of the R1 to have issued the notice. However, what appeals is the ground raised on the aspect of violation of the principles of natural justice.

3. The petitioner was appointed as a Clerk in the O.111 Seithur Primary Agricultural Co-operative Bank in May 1998 and has been promoted through the ranks thereafter.



4. An Enquiry Officer was nominated to enquire into certain incidents that had taken place from the year 1994 onwards, in respect of alleged non-recovery of loans advanced by the Co-operative Society. The enquiry was conducted, according to the petitioner, in violation of the principles of natural justice, and the enquiry report forwarded to R1. Pursuant thereof, the impugned notice has come to be issued by R1, challenged in this writ petition.

5. Chapter IX of the Tamil Nadu Co-operative Societies Act, 1983, (in short 'Act') provides for Audit, Inquiry, Inspection and Investigation, imposition of Surcharge and Supersession. The scheme envisaged for the conduct of proceedings is that, Audit is to be conducted in terms of Section 80 of the Act and Inquiry by an enquiry Officer in terms of Section 81 thereof.

6. Section 81 of the Act provides for the Registrar, by an inquiry either of his own motion or upon the application of a majority of the Board or one third of the Members of the Society, into the constitution, working and financial condition of a registered society.

7. In the present case, such inquiry has been initiated and a report generated. Section 81 states that the inquiry report shall be furnished either to the Government, the financing Bank or to the Society concerned. Section 81(6) may thereafter, states that the Registrar, by an order in writing, direct the registered society or any officer of the society or its financing Bank to take remedial action in regard to the defects as disclosed in the inquiry report.

8. Sections 82, 83, 84, 84(A), 85 and 86 deal with matters relating to inspection, investigation and the costs of enquiry, relevant to the issues that arise in this writ petition. Section 86 deals with the imposition of surcharge and states that where an inquiry has been conducted under Section 81 and a report furnished to the Registrar he may frame charges as against the person, officer or servant concerned and after affording them a reasonable opportunity to respond to the charges, pass an order requiring him to repay or restore the money or property or contribute compute such sum to the assets of the society by way of compensation for the action alleged.

9. In my considered view, the order contemplated under Section 87 would be the same as contemplated in terms of Section 81(6) as both provisions refer to orders directing remedial action to be taken by the society or the delinquent officer to set right the errors.

10. As regards the procedure to be adopted, the Registrar or the concerned authority has wide powers in terms of Section 87(6)



and the inquiry is to be conducted in line with the provisions of the Civil Procedure Code. The specific quarrel raised by the petitioner in this case is that he has been called upon to answer the charges framed, without giving him the benefit of the inquiry report.

11. Though Mr.D.Sadiq Raja, learned Additional Government Pleader appearing for the respondents would submit that all documents relied upon by the authorities including the inquiry report will be furnished to the noticee in due course and in the course of the inquiry to be conducted by the Registrar, that in my view, would be belated.

12. In order to be fully equipped to answer the charges the noticees must have the benefit of all documents relied upon by the respondents including the inquiry report, at the first instance. When the Court expresses such a view, learned Additional Government Pleader would agree that the inquiry report will be furnished to the petitioner forthwith.

13. With this, undertaking, the dispute raised by the petitioner stands resolved. The respondents are directed to furnish a copy of the inquiry report to the petitioner within a period of two weeks from today.

14. The petitioner shall submit his explanations within a period of four weeks from the date of receipt of the inquiry report as well as other documents relied upon in the statement of charges, that is, the impugned notice. He shall thereafter be heard, proceedings conducted in line with the mandate of Section 87(6) of the Act and an order passed thereafter, within four weeks from date of last personal hearing. All contentions are left open for deliberation, both touching upon the aspect of assumption of jurisdiction, as well as merits.

15. With this, this Writ Petition is closed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

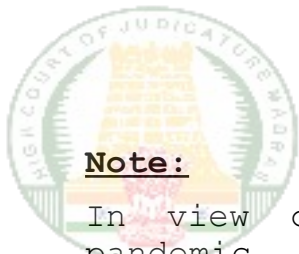
Assistant Registrar(AD-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv



Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Deputy Registrar of Co-operative Societies,
Srivilliputhur Region,
Srivilliputhur Post,
Virudhunagar District.

+1 CC to M/s.M.SARAVANAKUMAR, Advocate (SR-2628[F] dated 27/01/2022)

+1 CC to M/s.SPL.GP (SR-3129[F] dated 31/01/2022)

W.P. (MD) No.17436 of 2018
27.01.2022

TR(01.04.2022) 4P 4C