



WEB COPY



W.P.No.4767 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2023

CORAM :

The HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P. No.4767 of 2023 and W.M.P. Nos.4772 and 4774 of 2023

1.M/s.Ashok Leyland Employees Co-operative
House Construction Society Ltd.,
rep. by its President

2.M/s.Ashok Leyland Employees Co-operative
House Construction Society Ltd.,
rep. by its Secretary P.Muniyappan

... Petitioners

vs

1.The State of the Tamil Nadu,
rep. by its Principal Secretary (Housing),
Secretariat, Chennai-9.

2.The Registrar of Co-operative Society (Housing),
Chennai – 600 017.

3.The Deputy Registrar of
Co-operative Societies (Housing),
Chengalpet Region,
Azhagesan Nagar, Chengalpet.

4.Umadevi

5.V.V.Perumal

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India
praying to issue a writ of Certiorari calling for the entire records



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connected with impugned proceedings passed by the third respondent vide Na.Ka.No.835/2015/U, dated 11.01.2023 and quash the same.

For Petitioners : Mr.S.N.Ravichandran

For Respondents : Mr.S.Ravikumar,
Special Government Pleader

ORDER

Challenging the impugned proceedings issued by the third respondent vide Na.Ka.No.835/2015/U, dated 11.01.2023, this writ petition has been filed.

2.The petitioners are aggrieved by the impugned proceedings issued under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983. The petitioners claim that there was no mis-management or mis-appropriation of funds or violation of any rules or bylaws. The petitioners also claim that the petitioners Society are not funded by any Co-operative Bank or by any financial institution or by the Government, which warrants initiation of Section 81 Enquiry. According to the petitioners, without any complaint and without any allegation against them, the third respondent has initiated enquiry proceedings under Section 81 of the Tamil Nadu Co-operative Societies Act by issuing the impugned



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proceedings. The petitioners also contend that the third respondent had sought for illegal gratification, which was refused by the petitioners, which has resulted in the impugned proceedings being issued against the petitioners under Section 81 of the Tamil Nadu Co-operative Societies Act.

3.Heard Mr.S.N.Ravichandran, learned counsel for the petitioners and Mr.S.Ravikumar, learned Special Government Pleader, who accepts notice on behalf of the respondents.

4.Learned Special Government Pleader appearing for the respondents on instructions would submit that only due to the fact that the petitioner Society are attempting to collect the present market value from their members for the sale of the properties, which according to them is arbitrary and illegal, they have initiated enquiry proceedings under Section 81 of the Tamil Nadu Co-operative Societies Act. According to him, the respondents have received complaints with regard to the same.



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5.Learned counsel for the petitioners would submit that even without furnishing any documentary evidence in support of the respondents' allegations, proceedings have been initiated under Section 81 of the Tamil Nadu Co-operative Societies Act, which are arbitrary and illegal. Necessarily the respondents will have to provide copies of the documents/complaints received by the respondents, which is the basis of the impugned enquiry proceedings initiated under Section 81 of the Tamil Nadu Co-operative Societies Act to enable the petitioners to state their objections to the same by giving a reply.

6.Admittedly, no enquiry report has been submitted by the respondents pursuant to the impugned proceedings received by the petitioners. The interest of the petitioners would be adequately protected if a direction is issued to the respondents to give a copy of the complaints/documents based on which the proceedings have been initiated against the petitioners under Section 81 of the Tamil Nadu Co-operative Societies Act to enable the petitioners to state their objections to the same.



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7.No prejudice would be caused to the respondents if such a direction is issued by this Court.

8.For the foregoing reasons, this writ petition is disposed of by directing the respondents to furnish copies of the complaints/documents, which they rely upon to the petitioner for initiating surcharge proceedings against the petitioners by holding enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act. On receipt of the said documents from the respondents, the petitioners are granted one week time to state their objections with regard to the said documents and thereafter, the respondents can proceed further with the enquiry and submit an enquiry report as per Section 81 of the Tamil Nadu Co-operative Societies Act, after giving due consideration to the objections raised by the petitioners in their reply. No costs. Consequently, connected miscellaneous petitions are closed.

16.02.2023

Index:Yes/No
vga



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ABDUL QUDDHOSE, J.

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