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CRP.No. 1365 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :15..03.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

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V. Perumal

.. Petitioner

Versus

1. The Deputy Registrar of
Co-operative Societies (Milk),
Tiruvannamalai

2. Siruvallur Milk Producers Co-operative Society, (Ltd),
Siruvallur Village and Post
Vilvarani Village, Polur – 606 906

By the President

.. Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decreetal order dated 22.11.2019 of the learned Co-operative Tribunal, Tiruvannamalai Principal District Judge Tiruvannamalai passed in CTA No.15 of 2016 partly allowing the S.C.No.2/2015-2016 dated 23.02.2016 by the Deputy Registrar of Co-operative Societies (Milk) Tiruvannamalai and pass orders.

For Petitioner

: Mr. S. Sairaman for N. Srinivasan

For Respondent-1

: Mr. B. Tamilnishi
Additional Government Pleader

For Respondent 2

: Mr.L.ShanmugaSundaram



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ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 22.11.2019 passed by the learned Co-operative Tribunal, Tiruvannalai Principal District Judge Tiruvannamalai passed in CTA No.15 of 2016 partly allowing the S.C.No.2/2015-2016 dated 23.02.2016 by the Deputy Registrar of Co-operative Societies (Milk) Tiruvannamalai.

2.1. The petitioner was working as a Secretary from 06.07.1982 to 04.05.1996 in the second respondent society. Whiles o surcharge proceedings was initiated against the petitioner by the first respondent/Deputy Registrar by an common order dated 04.03.1996 in Sc No.06 of 1994 wherein the petitioner and two others was found guilty of several charges.

2.2 Aggrieved over the order dated 04.03.1996 in Sc No.06 of 1994 passed by the first respondent, the petitioner preferred an appeal



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before the Co-operative Society Appellate Forum cum District Judge, Tiruvannamalai who set aside the surcharge order dated 04.03.1996 in SC No.06 of 1994 passed by the Second Respondent and remanded back the matter for fresh disposal.

2.3. Thereafter enquiry was conducted and order was passed on 23.02.2016 by the third respondent/deputy registrar wherein the petitioner was found guilty of several charges and he is liable to pay a sum of Rs.76,848.02/- under different heads. Challenging the same the petitioner has filed C.T.A.No.15 of 2016 before the Co-operative Tribunal, Tiruvannamalai, Tiruvannamalai District (Principal District Court, Tiruvannamalai) wherein the learned Judge by an order dated 22.11.2019 partly allowed the appeal by confirming the 2nd and 3rd charges and set aside the 5th and 6th charges. Aggrieved over the same the petitioner has filed this present petition.

3. The learned counsel for the Revision petitioner submitted that the statement of defence submitted by the petitioner has not been duly considered by the first respondent in a proper perspective manner and



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passed an order mechanically. He further contend that the Deputy Registrar has failed to record any oral or documentary evidence and has simply passed an order by adopting the contentions of the enquiry report. He also contend that this is a gross violation of the principles of Audi Alteram Partem. Hence he prays this Court to set aside the order passed by the learned Co-operative Tribunal, Thiruvannamalai Principal District Judge Thiruvannamalai in in CTA No.15 of 2016 dated 22.11.2019 and allow this civil revision petition.

4. The learned counsel appearing for the respondents submits that there is no evidence or proof for the submission made by the learned counsel for the petitioner. He further submits that the petitioner is defending his case by stating flimsy reasons which is not legally sustainable. Hence he prays this Court to dismiss this petition.

5. On going through the impugned order it is seen that the learned Co-operative Tribunal had upheld the Charge No.2 and 3 and with respect to Charge No. 5 and 6 the same was set aside.



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Charge No.2:

The petitioner has been charged for an offence on 31.03.1992 for anonymous amount of 16,708.40/- pertaining to the feeder has not been disbursed and it was not credited to the societies account. However, on perusal of records the Deputy Registrar found that a sum of Rs.9,285/- was remitted in the society and an amount of Rs.7,423/- alone was not remitted to the society.

Charge No.3:

The petitioner had caused loss to the society by processing buggy milk for which this petitioner and two others are jointly responsible for the aforesaid charges. The petitioner had given statement that only as per the direction of the president, the appraiser had purchased the buggy milk which is not of good quality. The Deputy Registrar Registrar has arrived at a conclusion that the petitioner is liable to pay a sum of Rs. 3,168.60/-

Charge No. 5:

Deputy Registrar has clearly analysed and arrived at a finding that this petitioner is liable to pay the amount of Rs.29,017.60/- for the lesser



quantity of milk purchased.

Charge No:6

It is alleged that the petitioner is a responsible for the funds of the society by which an outstanding amount of Rs.2,567/- ought to have received by the petitioner from other sources and the same was done, thereby caused loss to the society to the tune of Rs.2,567/- (In the impugned order there was no discussion separately about the Charge No.6 and the charges No.5 and 6 have been discussed under one head)

6. Heard both sides and perused the materials available on record.

7.The question that arose for consideration in this petition is that the order passed by the the learned Co-operative Tribunal, Thiruvannamalai Principal District Judge Thiruvannamalai in CTA No.15 of 2016 dated 22.11.2019 requires for interference or not. To arrive at a better conclusion it is necessary to analyze two factors (i)that the charges foisted against the petitioner is valid or not and (ii) whether sufficient opportunity has been given to the petitioner to defend his case.



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8. With regard to Charge No.2 the petitioner has been charged for an offence that an anonymous amount of Rs.16,708/- pertaining to the feeder which has to be disbursed was not credited in the societies account and on perusal of records it is found that a sum of Rs.9,285/- was remitted in the societies account and a sum of Rs.7,423/- was not remitted. The petitioner during his evidence before Deputy Registrar on 18.01.2016 had stated that the said amount of Rs.16,708/- was collected and it was given to president Shanmugam. However, there is no documentary evidence that the Revision petitioner had given the amount to president Shanmugam. Hence the Deputy Registrar concluded that the petitioner is liable to pay the difference amount.

9. With regard to charge No. 3 the petitioner had caused loss to the society to an amount of Rs.3,168.60/- by processing buggy milk. However, the Deputy Registrar arrived at a finding that this petitioner and two others were liable to pay the said amount. However, finally concluded that this petitioner is liable to pay a sum of Rs.3,168/-.



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10. The decision arrived by the Deputy Registrar with regard to Charge No.2 and 3 is perfectly valid in the eye of law and does not require interference by this Court and the same is confirmed.

11. With regard to charge No.5 the Deputy Registrar has analysed and arrived at a finding that this petitioner is liable to pay the amount of Rs.29,017.60/- for purchasing lesser quantity of milk. The petitioner in his explanation had submitted that the lids of the milk can may be opened due to the jerk of the lorry, due to which a shortage of milk might have occurred and the Court below accepted the explanation given by the petitioner and discharged him from the charges which requires no interference by this Court.

12. In Charge No.6 it is alleged that the petitioner is responsible for handling the funds of the society, by which an outstanding amount of Rs.2,567/- ought to have been received by the petitioner from other sources and the same was not done by him and thereby caused loss to the society to the tune of Rs.2,567/- which requires interference by this



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Court. From the orders of the Deputy Registrar, it is seen that the petitioner has admitted to pay a sum of Rs.410/- and have stated that the remaining amount is with the president. When the petitioner himself has admitted the wrong, the Tribunal ought not to have set aside the said charge. The Tribunal has not gone through the Deputy Registrar's order in Detail and no valid reasons are stated while setting aside the said charge against the petitioner.

13. Hence the decision of the learned Judge in discharging the delinquent from the charge No. 6 suffers from infirmity and the same needs interference by this Court and this Court directs the petitioner to make good the loss sustained by him with respect to Charge No.6.

14. In view of the above said facts, the delinquent has to pay the amount derived the Court below with regard to second and third charges. That apart, the petitioner is found guilty of the Charge No.6 and he is liable to pay an amount of Rs.2,567/-.

15. Furthermore, the petitioner in his submission had stated that



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there is a gross violation of the established principles of Audi Alteram Partem . However on a perusal of records it is seen that sufficient time has been granted to the petitioner to defend his case.

16. In view of the foregoing reasons, the order passed by the learned Co-operative Tribunal, Thiruvannamalai cum Principal District Judge, Thiruvannamalai passed in C.T.A.No.15/2016 in partly allowing the S.C.No.2/2015-2016 dated 23.02.2016 by the Deputy Registrar of Co-operative Societies(Milk) Thiruvannamalai is hereby modified and the petitioner is found guilty for the Charges 2,3 and 6 and he is liable to pay the amount with respect to the said charges.

17 . In fine, this civil Revision petition is disposed off. There shall be no order as to costs. Consequently connected Miscellaneous petition is closed.

.03.2023

Speaking order : Yes/No

Index : Yes/No
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To

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Tiruvannamalai
2. Siruvallur Milk Producers Co-operative Society, (Ltd),
Siruvallur Village and Post
Vilvarani Village, Polur – 606 906
By the President
3. The Section Officer, V.R.Section,
High Court, Madras.



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V.BHAVANI SUBBAROYAN, J.

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