



WEB COPY



W.P.No.16379 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.16379 of 2023

and

WMP.No.15754 of 2023

K.Kannan

..Petitioner

Vs.

- 1.The State of Tamil Nadu
Rep.by the Principal Secretary to Government
Co-operation, Food and Consumer Protection Department
Secretariat, Fort St.George
Chennai 600 009.
- 2.The Registrar of Co-operative Societies
Housing
No.48, Ritherdon Road
Vepery
Chennai 600 007.
- 3.The Deputy Registrar
Housing
Fairlands, Salem 16
Salem District.
- 4.The Co-operative Sub-Registrar
O/o.The Deputy Registrar
Housing
Fairlands Salem 16
Salem District.



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5.S864 Salem Fairlands Co-operative
Housing Ltd
Rep.by its Secretary
Fairlands, Salem 16
Salem District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records of the impugned order dated 28.04.2023 in Na.Ka.No.4998/2022/Sa.Pa.No.2 passed by the first respondent and quash the same.

For Petitioner : Mr.R.Jothimanian

For Respondents : Mrs.S.Anitha for R1 to R4
Special Government Pleader

Mr.U.Bharanidharan for R5
Additional Government Pleader

ORDER

This Writ Petition is filed challenging the order passed by the second respondent dis-qualifying the petitioner from holding any post in Co-operative Society in future under Section 36 of the Tamil Nadu Co-operative Societies Act.



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2. The impugned order was mainly challenged by the petitioner on the ground of violation of natural justice principles. It is stated by the petitioner that before passing adverse orders against the petitioner, Section 81 enquiry report, based on which the present order was passed, has not been furnished to the petitioner.

3. The learned Special Government Pleader appearing for the respondents 1 to 4 submitted that in the show cause notice issued to the petitioner, prior to the passing of impugned order, the Section 81 enquiry report was annexed and the same was received by the petitioner.

4. The learned Special Government Pleader by taking this Court to the copy of the show cause notice along with the acknowledgment of the petitioner for having received the show cause notice along with 81 enquiry report, submitted 81 enquiry report was furnished to the petitioner. Further in the petitioner's explanation to the show cause notice, he himself admitted that he received a show cause notice dated 13.04.2022 along with 81 enquiry report. Therefore, the main contention raised by the learned counsel for the



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petitioner regarding violation of natural justice principles is not acceptable to this Court.

5. Against the order impugned in this Writ Petition, an appeal lies before the Government under Section 152 (2) (v) of the Tamil Nadu Cooperative Societies Act, 1983. Already this Court has come to the conclusion there is no violation of natural justice principles, while passing impugned order.

6. In such circumstances, this Court is not inclined to entertain this Writ Petition and the petitioner is directed to avail the alternative remedy available under Section 152 (2) (v) of the Tamil Nadu Cooperative Societies Act. It is open to the petitioner to file an appeal before the Government within a period of one week from the date of receipt of copy of this order. The petitioner is entitled to exclude the time taken before this Court in prosecuting the Writ Petition (viz., 23.05.2023 to the date of receipt of this order), while calculating the limitation is filing the appeal. If any such appeal is filed before the first respondent, the same shall be disposed of as expeditiously as possible preferably within a period of 8 weeks from the date of filing of such appeal.



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7. It is also open to the petitioner to file an application seeking interim relief if so advised. If any such application is filed, the same shall be considered by the first respondent and orders shall be passed in such application in accordance with law immediately.

8. Accordingly, this Writ Petition is disposed of. No costs.
Consequently, connected Miscellaneous Petition is closed.

31.07.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
dna

To

1.The Principal Secretary to Government
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Secretariat, Fort St.George
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2.The Registrar of Co-operative Societies
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3.The Deputy Registrar
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O/o.The Deputy Registrar
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