



Writ Petition No.20065 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.07.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

Writ Petition No.20065 of 2022
and W.M.P.Nos.19340 and 19341 of 2022

S.Palanivelu

...Petitioner

Vs

1. The Deputy Registrar of Co-operative Societies,
Tirukoilur Circle, Tirukoilur,
Villupuram District.

2.The Management of,
1.1.561, Semmar Primary Agricultural
Co-operative Credit Society,
Rep. by its President/Secretary,
Semmar and Post, Tirukoilur Taluk,
Villupuram District – 6707 107.

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus, praying to call of the records relating to the impugned order passed by the 1st respondent in Na.Ka.No.2175/2021 Sa.Pa, dated 13.05.2022 under Section 87 of Tamil Nadu Co-operative Societies Act, 1983 and quash the same in so far as the petitioner is concerned and consequently remand back to the 1st respondent to hold fresh enquiry in accordance with law.



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For Petitioner : Mr.L.P.Shanmugasundaram

For Respondents : Mr.R.U.Dinesh Rajkumar for R1
Additional Government Pleader
Mr.B.Tamilnidhi for R2
Additional Government Pleader

ORDER

This writ petition is filed challenging the order passed by the 1st respondent in surcharge proceedings initiated under Section 87 of Tamil Nadu Co-operative Societies Act, 1983.

2. Against the order passed in surcharge proceedings under Section 152 of Co-operative Societies Act, an appeal shall lie before the Co-operative Tribunal.

3. The learned counsel appearing for the petitioner mainly submitted that in the case on hand though the petitioner had requested the enquiry officer to furnish certain documents which are relevant to the charges framed against him, he failed to furnish the same. Therefore, the natural justice principles are violated and consequently without availing the alternative remedy, he has approached this Court.



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4. The Apex Court in *Virudhunagar Hindu Nadargal Dharma*

Paribalana Sabai and others Vs Tuticorin Educational Society and others

reported in (2019) 9 SCC 538 has categorically held that when alternative remedy is available before the regular Civil Court, the bar for exercise of jurisdiction under Article 227 of Constitution of India is near total. The said ratio is equally applicable to exercise of jurisdiction under Article 226 of Constitution of India.

5. Under Section 152 of Co-operative Societies Act, the petitioner has got a right of Appeal before the Co-operative Tribunal which is headed by a District Judge. Therefore, considering the ratio laid down in the above mentioned case, this Court is not inclined to accept the contention made by the learned counsel for the petitioner.

6. This Writ Petition is dismissed with liberty to the petitioner to file an appeal before the Co-operative Tribunal. The petitioner is entitled to exclude the time taken by him by prosecuting the writ petition before this Court namely 25.07.2022 to actual date of receipt of copy of this order.



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7. With these observations, this writ petition is disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

20.07.2023

Index : Yes/No

Speaking order: Yes/No

Neutral citation: Yes/No

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Note: Registry is directed to return the Original Impugned order to the learned counsel for the petitioner.

To

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