



WEB COPY



W.P.No.19970 of 2022 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.Nos.19970, 19976, 19983, 19988, 19991, 19995,
20003, 20011, 20015, 20024 and 20030 of 2022

and

W.M.P.Nos.19268, 19272, 19278, 19286, 19288, 19292, 19295, 19300,
19304, 19306, 19312 and 19320 of 2022

W.P.No.19970 of 2022:

1.P.G.Gandeeban

2.Sagunthala

3.S.Amsa

4.Thulasi

5.P.Thirupathi

... Petitioners

vs.

The Deputy Registrar of Cooperative Societies,
Ponneri Circle, Ponneri,
Tiruvallur District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of

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India, to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in his proceedings Na.Ka.No.1466/2021/Sa.Pa.2, dated 07.06.2022 and quash the same.

For Petitioners : Mr.C.Prakasam
(in all WPs)

For Respondent : Mr.S.Silambanan
Additional Advocate General-II
Assisted by Mrs.S.Anitha
Special Government Pleader

COMMON ORDER

These writ petitions are filed challenging the show cause notice issued by the respondent under Section 87 of the Tamil Nadu Cooperative Societies Act, 1983 calling the petitioners to show cause why surcharge order shall not be passed against them.

2. The impugned show cause notice for initiation of surcharge order against the petitioners was issued by the respondent on the ground that certain appointments have been made to the post of Office Assistants against the relevant rules and circulars issued by the Registrar and salary has been



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paid to such illegally appointed employees and thereby, the petitioners caused loss to the Society.

3. The learned counsel appearing for the petitioners submitted that as per the Special Bylaws of the Society, the Appointing Authority is the Board and the appointments shall be made by way of direct recruitment. The petitioners have not violated any rule in making appointments. Therefore, the basis for initiation of surcharge proceedings is erroneous.

4. The present writ petition has been filed questioning the show cause notice issued by the respondent for initiation of surcharge proceedings. It is settled law that a writ petition can be entertained challenging the show cause notice only on limited grounds like error of jurisdiction or allegation of *mala fides*.

5. In the case on hand, the petitioners have not made out any case regarding error of jurisdiction or *mala fides*. In such circumstances, this Court is not inclined to entertain the writ petitions. The argument made by the learned counsel appearing for the petitioners regarding the legality of the



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appointments made is the case on merits and the same can be agitated by the petitioner before the respondent in the surcharge proceedings. When impugned notice is issued to petitioners calling for their explanation in surcharge proceedings, the petitioners are expected to appear before respondent and offer their explanation against surcharge proceedings. If the petitioner wants furnishing of any incriminating materials relied on by respondents, they are also at liberty to make a request for the same. It is not the case of the petitioners notice is issued by incompetent authority or it is stemmed out of *mala fides*. Therefore, I do not find any reason to interfere with the impugned show cause notice issued by the respondent.

6. Accordingly, the writ petitions are dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

21.09.2023
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Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm



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To

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The Deputy Registrar of Cooperative Societies,
Ponneri Circle, Ponneri,
Tiruvallur District.



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S.SOUNTHAR, J.

dm

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