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W.P. No. 24682 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.11.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 24682 of 2023

and

W.M.P. No. 24124 of 2023

R.Veeramani

... Petitioner

-VS-

1. The Deputy Registrar of Co-operative Societies (Housing),
Chennai Region,
GMS Building,
No. 55, Medavakkam Tank Road,
Kilpauk,
Chennai – 600 010.

2. K.Venkatesan
Deputy Registrar of Co-operative Societies (Housing)
Chennai Region/Managing Director of the Chennai
Metropolitan Co-operative Housing Society,
Vepery,
Chennai – 600 007.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari calling for the records of the order passed by the 1st respondent in Na.Ka.No. 1177/2023/sa.pa. Dated 16.06.2023 quash the same.



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For Petitioner : Mr. M.S.Palaniswamy
For Respondents : Mr. J.Ravindran
Additional Advocate General
assisted by U.Baranidharan (for R1)
Mr. C.Meera Arumugam (for R2)

ORDER

Heard Mr. M.S.Palaniswamy, Learned Counsel for the Petitioners, Mr. J.Ravindran, Learned Additional Advocate General assisted by Mr. U.Baranidharan, Learned Additional Government Pleader appearing for the First Respondent and Mr. C.Meera Arumugam, Learned Counsel appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the grievance ventilated by the Petitioner that the First Respondent by Proceedings in Na. Ka. No. 1177/2023/SaPa/ dated 16.06.2023, which is assailed in this Writ Petition, has been repeatedly ordering successive enquiries under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the TNCS Act' for short) into affairs of the Chennai Metropolitan Co-operative Housing Society (hereinafter referred to as 'the Society' for short) on the same set of allegations, which cannot be countenanced



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3. In response, Learned Additional Advocate General appearing for the First Respondent asserts that the impugned proceedings is in consequence to the Order in Na. Ka. No. 3772/2023/SaPa3 dated 08.06.2023 relating to fixation of salaries of Thiru. V.Nithiyanantham, who had retired from service as Deputy Registrar and was re-appointed as Chief Executive Officer on contract basis, and Thiru. R.Jeyakumar, who retired as General Manager and was re-appointed as Administrative Officer on contract basis, which was not part of any of the earlier matters referred for enquiry under Section 81 of the TNCS Act.

4. Learned Counsel for the Petitioner has not been able to demonstrate from the materials placed on record that the same matter had been included in any of the earlier enquiries conducted under Section 81 of the TNCS Act, for which surcharge proceedings against the responsible persons has been taken under Section 87 of the TNCS Act. Moreover, an enquiry under Section 81 of the TNCS Act is merely a fact finding exercise which does not *per se* entail civil consequences to the persons against whom any adverse report is rendered as its outcome. It is only when consequential action is taken based on such report



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that the concerned person could be aggrieved for seeking restraint. In that view of the matter, when no real prejudice has been established by the Petitioner, there does not appear to be any justification to interfere with the impugned proceedings at this pre-mature stage. It is hastened to clarify here that no view has been expressed by this Court on the merits of the controversy involved, and if any necessity arises later, the Petitioner is not precluded from working out his remedies in that regard, if permissible, in accordance with law.

5. It is needless to add here that for the purpose of reckoning the period of limitation for conduct of the enquiry under Section 81 of the TNCS Act, the period from the date of filing of the Writ Petition, viz., 18.08.2023 till the date on which the certified copy of this order is made ready by the Registry, shall be excluded.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

08.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 14.02.2024.

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P.D. AUDIKESAVALU, J.

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