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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.133 of 2020
and
W.M.P(MD)Nos.79 of 2020 and 14328 of 2022

R.Saravana Kumar,
President,
A.2969, Poolampatti Primary Agriculture
Co-operative Credit Society,
Poolampatti, Madurai District. ... Petitioner

Vs.

1.The Deputy Registrar of Co-operative
Societies,
Madurai Circle,
Madurai.

2.A.2969, Poolampatti Primary Agricultural
Co-operative Credit Society,
Rep. by its Secretary,
Poolampatti,
Madurai District. ... Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records relating to the impugned surcharge summon in proceedings Tha.The.Va.

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03/2019-2020 dated 24.12.2019 and to set aside as illegal and without jurisdiction.

For Petitioner : Mr.K.Rajeswaran

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

The above writ petition is filed seeking to quash the surcharge summons in proceedings bearing No.Tha.Tha.Va.03/2019-2020, dated 24.12.2019 and to set aside the same. The impugned notice only calls upon the petitioner to provide his explanation with documents.

2. The learned counsel for the petitioner would submit that it was only the secretary of the Society, who has been held guilty and therefore, there is no necessity to initiate surcharge proceedings against the petitioner. However, a perusal of the report submitted by the second respondent would indicate that both the President as well as the Secretary have been held responsible for the loss. The learned counsel for the petitioner would seek to draw the attention of this Court by stating that

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he has not been found negligent. Therefore, the notice has to be necessarily quashed.

3. Heard the learned counsel for the petitioner as well as the learned Government Advocate for the respondents.

4. As pointed out by the learned Government Advocate, the impugned order is only a notice calling upon the petitioner to submit his explanation. The notice does not necessarily indicate that surcharge proceedings would be initiated. If the petitioner is able to give sufficient explanation, proceedings may not be initiated against him. Therefore, filing of the writ petition at this stage is not only premature, but also an attempt to scuttle the further proceedings. Accordingly, this writ petition is dismissed. Therefore, the petitioner is directed to submit his explanation to the first respondent within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation, the first respondent shall consider the same after affording an opportunity to the petitioner and thereafter pass orders within a period of four weeks

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therefrom. No costs. Consequently, connected miscellaneous petitions are closed.

16.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
cp

To

1.The Deputy Registrar of Co-operative
Societies,
Madurai Circle,
Madurai.

2.A.2969, Poolampatti Primary Agricultural
Co-operative Credit Society,
Rep. by its Secretary,
Poolampatti,
Madurai District.

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P.T.ASHA, J.

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