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W.P.(MD)NO.2359 OF 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.2359 to 2361 of 2023 and
W.M.P.(MD)Nos.2136 to 2141 of 2023

Arumuga Nainaar

... Petitioner

in W.P.(MD)No.2359 of 2023

V.Masuthu

... Petitioners

in W.P.(MD)Nos.2360 & 2361 of 2023

Vs.

1. The Registrar of Co-operative Societies (Housing),
Tamil Nadu Co-operative Housing Federation,
No.48, Retherathan Road,
2nd Floor Vepperi,
Chennai – 7.

2. The Co-operative Sub Registrar/
The Deputy Registrar of
Co-operative Societies (Housing) (I/C),
Tirunelveli,
Tirunelveli District.

3. The Senior Inspector / Enquiry Officer,
O/o.The Regional Deputy Registrar
of Co-operative Societies (Housing),
Tirunelveli Region,
Tirunelveli District.

... Respondents
in all petitions

Common Prayer: Writ petitions filed under Article
226 of the Constitution of India, to issue a Writ of Certiorari,



calling for the records pertaining to the impugned enquiry reports passed by the third respondent dated 23.05.2022, 27.05.2022 and 07.07.2022 and quash the same as illegal.

(in all W.Ps.)

For Petitioner : Mr.L.Shaji Chellan

For Respondents: Mr.Veerakathiravan,
Additional Advocate General,
assisted by,
Mr.SRA.Ramachandran,
Additional Government Pleader.

* * *

COMMON ORDER

Heard, Mr.L.Shaji Chellan, learned counsel appearing for the writ petitioner and Mr.Veerakathiravan, learned Additional Advocate General, assisted by Mr.SRA.Ramachandran, learned Additional Government Pleader appearing for the respondents.

2. The petitioners question the impugned reports submitted under Section 81 of the Tamil Nadu Co-operative Societies Act 1983. The learned counsel appearing for the petitioners reiterated all the contentions set out in the



respective affidavits. He raised threefold contentions:

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- a) The enquiry was conducted by an incompetent authority.
- b) The petitioner in W.P.(MD)No.2359 of 2023 is not even a member of the society concerned.
- c) The report is fundamentally defective.

3. I have consistently held that the report under Section 81 of the Act is not binding. The authority may accept the same or reject it. If the authority accepts the report, he can only take consequential action. At that stage, all the rights of the noticees are available. The findings / final enquiry are neither conclusive nor binding. They only furnish cause of action for initiating further action. When further action is taken, the petitioners can always establish their innocence. The parameters set out in Section 88 or Section 87 or Section 36 of the Act will have to be independently shown to exist. The authority cannot treat the report under Section 81 of the Act as having given a conclusion for everything. Even when consequential action is taken, the principles of natural justice will have to be fully complied with. It is for this reason, I



decline to entertain the challenge to the enquiry report.

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4. All the other contentions of the petitioners are left open. These writ petitions are dismissed with the aforesaid observations. No costs. Consequently, connected miscellaneous petitions are closed.

06.02.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN,J.

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