



W.P(MD)No.3290 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3290 of 2023

and

W.M.P(MD)Nos.3043 & 3046 of 2023

K.Rajkumar

... Petitioner

Vs

1.The Deputy Registrar,
Office of the Deputy Registrar of Co-operative Societies,
Uthamapalayam Post,
Theni District.

2.P.Sathiya Janani,
Co-operative Sub Registrar /
Enquiry Officer,
Office of the Deputy Registrar of Co-operative Societies,
Uthamapalayam Post,
Theni District.

3.The Branch Manager,
Madurai District Central Co-operative Bank,
Chinnamanoor Branch,
Chinnamanoor post,
Theni District.

4.The Inspector of Police,
CCIW CID Police,
Theni Post,
Theni District.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records from the second respondent pertaining the impugned under Section 81 enquiry Report dated 22.03.2022 by the second respondent and quash the same.

For Petitioner : Mr.C.G.Pethanaraj

For Respondents : Mr.A.Baskaran
Additional Government Pleader
for R.1 & R.2

Mr.R.Sivakumar
Government Advocate (Criminal Side)
for R.4

ORDER

Heard the learned counsel appearing for the writ petitioner, the learned Additional Government Pleader appearing for the respondents 1 and 2 and the learned Government Advocate (Criminal Side) appearing for the fourth respondent.

2.The petitioner challenges the report filed under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983. The report was submitted way back in March 2022. In the light of the facts and circumstances obtaining in this case,



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I decline to entertain a challenge to the report. This is for more than one reason. It is not as if the report submitted under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 is binding on the authority. The authority can reject the report also. Even if the report is accepted and consequential action under Section 87 of the Act is initiated, still the petitioner will have to be given the fullest opportunity. As and when surcharge proceedings are initiated against the petitioner, the petitioner can very well impugn the findings set out in the report filed under Section 81 of the Act. The enquiry officer conducting surcharge proceedings cannot proceed on the premise that the findings of Section 81 of the enquiry report are binding on him. I have already held vide order dated 11.01.2023 in W.P(MD)No.28353 of 2022 (***V.Ebinezar and another Vs The Joint Registrar, Theni District & Others***) that the report under Section 81 of the Act can only be taken as a starting point for triggering further action. The case against the petitioner if initiated under Section 87 of the Act will have to be independently dealt with in the proceedings under Section 87 of the Act. The enquiry officer cannot mechanically or blindly go by the findings under Section 81 enquiry report.

3.Since the rights of the petitioner are fully protected and his defenses are left fully open, the challenge to the impugned report is not entertained. With



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these observations, this writ petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

20.02.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

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G.R.SWAMINATHAN, J.

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