



W.P.(MD) No.5854 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.5854 of 2020

and

W.M.P.(MD) Nos.5079 and 5080 of 2020

1.S.Niraikulathan,
TYD-352,
Sivalarkulam Milk Producers
Cooperative Societies,
Sivalarkulam (P.O),
Alangullam Taluk, Tenkasi District.

2.U.Natarajan,
TYD-469,
Mavadi Milk Producers
Cooperative Societies,
Mavadi (P.O), Manoor Taluk,
Tirunelveli District.

3.S.Subbiah,
TYD-9,
Singathakurichi Milk Procedures
Cooperative Societies,
Singathakurichi, Srivaikundam,
Thoothukudi District.

.. Petitioners

Vs.



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1. The Principal Secretary to Government,
Animal Husbandary, Dairying and Fishes Department,
St. George Fort, Secretariat, Chennai-9.
 2. The Commissioner,
Milk Production and Dairy Development Department,
Madhavaram Milk Colony,
Chennai-51.
 3. The Managing Director,
Tamilnadu Cooperative Milk Production Federation Ltd.,
Aavin Illam, Nandanam, Chennai-35.
 4. The Deputy Registrar (Dairying),
Collectorate Campus,
Kokirakulam, Tirunelveli.
 5. The Deputy Registrar (Dairying),
Mudivithanenthall, Vagaikulam Post,
Thoothukudi.
 6. The General Manager,
Tirunelveli District Cooperative Milk
Producer Union Ltd.,
Reddiarpatti Road,
Perumalpuram Post, Tirunelveli-7.
 7. The General Manager,
Thoothukudi District Cooperative Milk
Producer Union Ltd.,
Balavinayagar Kovil Street
(Opp. To Tuticorin Municipal Corporation),
Thoothukudi-2.
- .. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the second respondent not to proceed further with the bifurcation as per G.O.Ms.No. (2D) 20 dated 22.08.2019 on the file of first respondent without complying the procedures as per Section 13 of the Tamil Nadu Co-operative Societies Act and consequently direct the respondents to adopt the procedures followed before bifurcation and to restore the states to its original position as it stood prior to 22.08.2019.

For Petitioner : Mr.S.Rajasekar
For R1 : Mr.R.Ragavendran
Government Advocate
For RR2 to 5 & 7 : Mr.Mareeskumar
Standing Counsel
For R6 : Mr.J.Devasenar

ORDER

This writ petition is filed for the following relief:

“For the issue of a Writ of Mandamus, directing the second respondent not to proceed further with the bifurcation as per G.O.Ms.No.(2D) 20, dated 22.08.2019 on the file of first respondent without complying the procedures as per Section 13 of the Tamil Nadu Co-operative Societies Act and consequently direct the respondents to adopt the procedures followed



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before bifurcation and to restore the states to its original position as it stood prior to 22.08.2019.”

2. It is the case of the petitioners that the petitioner-Society are milk producers within the Tirunelveli District and they have been contributing to the sixth respondent. It is the case of the petitioners that they are one among the many milk producers Cooperative Society who supply the milk collected through their members to the sixth respondent-Cooperative Society. The milk producers in Tirunelveli have been contributing considerably to the sixth respondent and are in a great way responsible for the growth of the Aavin in the neighbouring Districts. It is their contention that both Tirunelveli and Tuticorin Districts have been doing well in the procurement of milk, its sales to milk Cooperative Societies etc. Average supply of these two milk societies to Aavin stood at 64,000 litres. On an average in a day, 31,500 litres of milk from 263 Cooperative Societies in Tuticorin and 204 Societies in Tirunelveli were being procured by the sixth respondent and sale of milk in Tirunelveli was much more than that of Tuticorin.



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3. While things stood so, the first respondent had passed the impugned Government Order in G.O.Ms.No.(2D) 20, dated 22.08.2019 in and by which they had bifurcated the Tuticorin Milk Producers Cooperative Union from and out of the Tirunelveli Union without considering the interest and request of the stake holders.

4. It is the case of the petitioners that Tirunelveli Dairy was handling 1,00,000 litres of milk everyday and the Government had also released funds for meeting the capacity of 1,50,000 litres per day. The petitioners would submit that originally when both Districts were clubbed, the procurement stood at 64,000 litres and now with the bifurcation, 31,500 litres of milk was procured from Tuticorin and 33,500 litres from Tirunelveli.

5. The petitioners would further submit that before the bifurcation, the sixth respondent-Union had huge liabilities of old long term loan availed for establishing the dairy and infrastructures, which has now been shared commonly by both Tirunelveli and Tuticorin Union. Apart



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from that, the Tuticorin Union also had other outstanding. The petitioners would submit that the sixth respondent-Union has been incurring losses after this bifurcation, which is eating into the working capital. It is their further case that Section 13 of the Tamil Nadu Cooperative Societies Act, 1983 (hereinafter referred to as “the Act”) provides for the division and amalgamation of societies. It is their case that this provision has not been followed. Therefore, the petitioners would seek a mandamus directing the second respondent not to proceed further with the bifurcation as per G.O.Ms.No.(2D) 20, dated 22.08.2019 without complying with the procedure contemplated under Section 13 of the Act.

6. When the matter had come up on 10.04.2023, it was informed that the Tuticorin Unit has not become functional and the learned Special Government Pleader was directed to get necessary instructions in this regard. On 25.04.2023, when the matter had come up, it was informed that the Tuticorin Unit was functional. However, the documents regarding the same were not produced. An argument was also put



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forward by the learned counsel for the petitioners that the entire processing of the milk even from the Tuticorin Milk Producers was only being done by the Tirunelveli Unit for which they were not being paid. Therefore, the learned Special Government Pleader was directed to produce documents showing the same.

7. Today, when the matter is listed, the learned Government Advocate has produced a letter from the Director of Milk Production and Dairy Development Department, Chennai, addressed to the General Manager, Thoothukudi District Cooperative Milk Producers Union Ltd., (the seventh respondent). The seventh respondent has reiterated that a sum of Rs.5,50,664/- was payable to the sixth respondent and the sixth respondent, on the contrary, would submit that a sum of Rs.4 Crores was due. The letter would further direct the General Manager, Tuticorin Union to release pending dues to the Tirunelveli Unit immediately so as to enable the Tirunelveli Unit to pay their Milk Producers. The sale final audit, sales account of the sixth respondent have been produced, in which it is shown that the payments have been made to the sixth respondent.



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Further, the petitioners have not challenged the Government Order and what is canvassed before this Court is that the payments have not been made as per the accounts.

8. This Court, sitting in Article 226 of the Constitution, cannot be made to look into the accounts of the parties, which is purely in the realm before the Registrar of Cooperative Societies. Further, the petitioners are only the members of the sixth respondent-Union, which has not questioned the Government Order. Therefore, this Writ Petition is disposed of with a direction to the seventh respondent to continue making payments to the sixth respondent and both parties to approach the Registrar of Cooperative Societies in order to settle the dispute with reference to the amounts that are due by and from the seventh respondent to the sixth respondent. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes/No
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P.T.ASHA, J.

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