



W.P(MD)No.9458 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.04.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.9458 of 2023
and
W.M.P.(MD) No.8455 of 2023

Chinnappa

... Petitioner

Vs.

- 1.The Joint Registrar of Co-operative Societies,
O/o.Joint Registrar of Co-operative Societies,
Medical College Road,
Thanjavur Town and Taluk,
Thanjavur District.
- 2.The Deputy Registrar of Co-operative Societies,
Pattukottai Region,
No.8, Jayaraj Complex, 2nd Floor,
Pattukottai,
Thanjavur District.
- 3.Sugi Swaminathan
The Deputy Registrar of Co-operative Societies,
Pattukottai Region,
No.8, Jayaraj Complex, 2nd Floor,
Pattukottai,
Thanjavur District.

... Respondents



W.P(MD)No.9458 of 2023

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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned summons in Na.Ka.2773/2022/Sapa dated 06.02.2023 on the file of the second respondent and quash the same as arbitrary illegal and violation of principles of natural justice and consequently direct the second respondent to serve the enquiry report conducted under section 81 of the Tamil Nadu Co-operative Societies Act, 1983 in Na.Ka.No.4164/2021/Ku.Vee.Ka dated 29.11.2021 for effectively put forth the petitioners case pertaining to the surcharge proceedings recommendation dated 09.05.2022.

For Petitioner : Mr.D.R.Murugesan

For Respondents : Mr.K.S.Selvaganesan - for R1 & R2
Additional Government Pleader

ORDER

The writ petition has been filed in the nature of a Certiorarified Mandamus seeking records relating to a summon issued to the petitioner dated 06.02.2023 relating to an enquiry under Section 87



W.P(MD)No.9458 of 2023

in Na.Ka.No.2773/2022/Sapa by the second respondent and to interfere with the same. It had been stated that there was violation of principles of natural justice since the enquiry report under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, dated 29.11.2021 in Na.Ka.No. 4164/2021/Ku.Vee.Ka had not been furnished to the petitioner herein.

2. However, the learned Special Government Pleader forwarded an acknowledgement issued by the petitioner himself about receipt of the enquiry report which was conducted under Section 81 of the aforementioned Act.

3. Thereafter, the learned counsel for the petitioner stated that some statements of witnesses which have to be furnished in accordance with Section 87(4) of the said Act.

4. The writ petition however, has been filed questioning issuance of summons to appear for enquiry. The petitioner may take a decision. He may appear. He need not appear. The Court cannot force



W.P(MD)No.9458 of 2023

WEB COPY

him to appear. But certainly the respondents have a right to pass orders, if the petitioner does not appear for several hearing dates. Therefore, the petitioner may take a prudent decision about the enquiry which has been initiated against him. He had been now served with a copy of the enquiry report under Section 81 of the said Act. The next stage is to participate in the enquiry. The order impugned is only a notice calling upon the petitioner to participate in the enquiry. At this stage, the Court cannot interfere with an on going proceedings.

5. It is also seen that the petitioner had impleaded the second respondent namely, the Enquiry Officer in his personal capacity by giving his name as the third respondent. Let me make it very clear that this is a clear case of intimidation and at no point of time the second respondent or the third respondent should be changed as an Enquiry Officer, merely because in the affidavit filed in support of the writ petition, the allegations have been raised. These allegations hold no water at all and a duty is cast on the petitioner to appear for the enquiry before the very same Enquiry Officer. A specific direction is given that



W.P(MD)No.9458 of 2023

the very same Enquiry Officer should continue with the proceedings and proceed further. I am confident that during the enquiry all the records on which the enquiry is based on will be served on the petitioner herein.

6. The writ petition stands dismissed with a direction to the petitioner to answer to the notice which is impugned in the present writ petition. No costs. Consequently, connected miscellaneous petition is closed.

24.04.2023

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

RM



W.P(MD)No.9458 of 2023

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W.P(MD)No.9458 of 2023

C.V.KARTHIKEYAN, J.

RM

W.P(MD)No.9458 of 2023

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