



W.P(MD)No.277 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.277 of 2015

and

M.P.(MD)No.1 of 2015

P.Surendran Nair

... Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies,
Nagercoil,
Kanyakumari District.

2.The Deputy Registrar of Co-operative Societies,
Thuckalay,
Kanyakumari District.

3.The Co-operative Sub-Registrar/Nu-Koo/
Enquiry Officer of Malayadi P.A.C.C.S.Ltd.,
Y.No.149,
Office of the Deputy Registrar of Co-operative Societies,
Thuckalay,
Kanyakumari District.

4.Glastin Jospeh
(Father's name not known to the petitioner)
Field Officer of Co-operative Societies of Melpuram
Panchayat Union,
Office of the Deputy Registrar of Co-operative Societies,
Thuckalay,
Kanyakumari District.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records of the 1st respondent in Notice in Na.Ka.No. 6919/2014 Sa Pa dated 10.12.2014 on his file, quash the same.

For Petitioner : Mr.K.N.Thampi

For Respondents : Mr.S.Shanmugavel
Additional Government Pleader for R1 to R3

: Mr.Glastin Joseph for R4

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the official respondents.

2. The first respondent had issued the impugned notice dated 10.12.2014 under Section 36 of the Tamil Nadu Co-operative Societies Act. Disqualification of the petitioner has been proposed and the petitioner has been called upon to offer his response.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned notice and grant relief as prayed for.



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4. The first respondent has filed his counter affidavit and the learned Additional Government Pleader took me through its contents. It is submitted that since only a notice has been issued, the petitioner can very well offer his explanation and come to this Court, if any adverse final order is passed. According to the learned Additional Government Pleader, the rights of the petitioner have not been contravened at this stage.

5. I carefully considered the rival contentions and went through the materials on record.

6. A reading of the counter affidavit as well as the impugned order would indicate that Crime No.57 of 2014 was registered against the petitioner on the file of the Palukal Police Station. It was charge sheeted and taken on file in C.C.No.89 of 2014 on the file of the Judicial Magistrate No.1, Kuzhithurai. The case ended in acquittal on 11.03.2016. The defacto complainant filed Criminal Appeal No.47 of 2016 before the Additional Sessions Judge, Kuzhithurai. It was dismissed for default on 13.09.2022. Likewise, there is a reference to Crime No.2 of 2003. It was charge sheeted and taken on file in C.C.No.8 of 2004 on the file of the Special Court. The learned counsel for the petitioner asserts that the said case had also ended in acquittal. The other



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allegation made against the writ petitioner is that instead of claiming sitting fee of Rs.50/-, the petitioner had claimed Rs.100/- and thus, caused to the tune of Rs.3,200/-. Section 36 of the Act contemplates permanent disqualification. Only in respect of mismanagement, the provision has to be invoked. The recitals set out in the impugned notice are not sufficient to attract jurisdiction under Section 37 of the Act. In any event, most of the premises under the impugned notice are totally undermined by the subsequent developments.

7. In view of the same, the impugned notice is quashed. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

18.08.2023

Index : Yes / No
Internet : Yes/ No
rmi

To

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G.R.SWAMINATHAN, J.

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