



WEB COPY



W.P.No.8055 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.8055 of 2024
and WMP.Nos.9013 & 9015 of 2024

Dr.A.D.Baskaran

... Petitioner

Vs.

- 1.The Government of Tamilnadu,
Rep. By its Principal Secretary to Government,
Finance Department (Co-operative Audit),
Fort St.George, Secretariat, Chennai 600 009
- 2.The Government of Tamilnadu,
Rep. By its Principal Secretary to Government,
Housing and Urban Development Department,
Fort St.George, Secretariat, Chennai 600 009
- 3.The Government of Tamilnadu,
Rep. By its Principal Secretary to Government,
Co-operation, Food and Consumer Protection (CE2) Department,
Fort St.George, Secretariat,
Chennai 600 009
- 4.The Director of Co-operative Audit,
No.571, Anna Salai, 2nd Floor,
Perasiriyar K.Anbalagan Maligai,
Veterinary Hospital Campus,
Nandanam, Chennai 600 035
- 5.The Registrar of Co-operative Societies(Housing),
No.48, Ritherton Road,
Vepery, Chennai 600 007

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of



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India praying to issue a Writ of Certiorarified Mandamus after calling for the records of the third respondent in GO.(Nilai)No.37, Co-operation, Food and Consumer Protection(CE2) Department dated 26.02.2024 and GO.(2D)No.15, Co-operation, Food and Consumer Protection(CE2) Department dated 26.02.2024 and quash the same and issue consequential directions to the respondents to allow the petitioner to continue as Additional Registrar with all benefits.

For Petitioner : Mr.Mohammed Riyaz
for Mr.A.M.Esakkiappan

For Respondents : Mr.J.Ravindran,
Additional Advocate General
Assisted by
Mrs.M.Geetha Tamaraiselvan,
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the third respondent dated 26.02.2024 in GO.(Nilai) No.37, Cooperation, Food and Consumer Protection (CE2) Department thereby suspended the petitioner.

2. The petitioner was originally appointed by the third respondent Department and thereafter deputed to the second respondent Department and there, the petitioner was appointed as Registrar of



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Cooperative Societies (Housing) and he was holding the Office of the Head of the Department of Cooperative Societies (Housing) from 14.09.2021 to 11.09.2023. He was later taken back by the parent Department and the petitioner was appointed as Additional Registrar / Managing Director, Coimbatore District Central Cooperative Bank, Coimbatore on 11.01.2024. When the petitioner was holding the Office of Registrar of Cooperative Societies(Housing), implemented several guidelines and also had issued several circulars. However, several allegations were made against the petitioner since lapses were noticed on his part while serving as Registrar of Cooperative Societies (Housing). In pursuant to the said allegations, enquiry was conducted by the Director of Vigilance and Anti-Corruption based on a Special Audit Report submitted by the fourth respondent and the petitioner was suspended from service.

3. The learned counsel appearing for the petitioner submitted that the Special Auditor has acted in contravention to the Tamilnadu Cooperative Societies Act and Rules. Neither the first respondent nor the



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fourth respondent has power to conduct Special Audit into a Cooperative Society. The fourth respondent is empowered only to carry out yearly audit under Section 80 of the Tamilnadu Cooperative Societies Act (hereinafter called as 'the Act'). As per the Act, the said exercise of Special Audit or investigations or enquiry into any allegations have to be conducted by the fifth respondent i.e. the Registrar of Cooperative Societies(Housing). Section 80(7) of the Act mandates that audit report has to be furnished to the Society and if any defects are disclosed, the registered Society is required to rectify the defects. In fact, the Government is empowered only under Section 182 of the Act to give directions to the Registrar to make enquiry or to take appropriate proceedings under that Act. Therefore, the first respondent is not an authority to issue any direction to the Registrar to conduct enquiry. The second respondent Department is the appropriate authority to issue directions to carry out enquiry in public interest.

4. Heard, the learned counsel appearing on either side.



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5. On perusal of records revealed that on the complaint, the first respondent noted that certain irregularities had been committed while granting approval for development of layout by Cooperative Housing Society on a public private partnership model or joint venture model. On a proposal sent by the fifth respondent for approval for promotion of lay out dated 14.06.2022, the petitioner granted sanction / approval for the implementation of the said layout by the proceedings dated 11.10.2022. In the said approval for development of layout, there were several lapses occurred while granting approval, in pursuant to which, the Special Audit was conducted by the fourth respondent. Though it was on the direction issued by the first respondent, the fourth respondent has got jurisdiction to conduct audit under the Act. On perusal of the report, the third respondent directed the Vigilance and Anti Corruption Department to register criminal case and conduct investigation. In pursuant to the said direction, the petitioner was suspended from service by the order in GO.(2D)No.15, Co-operation, Food and Consumer Protection(CE2) Department dated 26.02.2024.



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6. On perusal of the direction issued by the third respondent, revealed that there were several lapses while approving the implementation of layout thereby caused loss to the exchequer to the tune of Rs.3,86,22,568/-. The promoter was given interest free deposit and it is violation of the Act. Further, the promoter was given benefit of remission of stamp duty for the sale executed by the promotor in favour of the society and thereby caused loss to the tune of Rs.3,61,79,640/-. Further, no steps have been taken to increase the margin money of the society from the sale of the plots in spite of granting approval for increasing the development charges. Further alleged that fixation of land development charges without calling for tender under the Tamilnadu Transparency in Tenders Act, 1998 and failed to deduct TDS on such development charges. The loan was also sanctioned contrary to the terms and conditions of the proceedings. In view of the said grave allegations, *prima facie* is made out to suspend the petitioner. Further, the petitioner was suspended only on 26.02.2024. Therefore, it is premature to challenge the order of suspension. Hence, this court finds no infirmity or



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illegality in the order passed by the third respondent. As such, this writ petition is devoid of merits and liable to be dismissed.

7. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

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Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

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- 2.Principal Secretary to Government,
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