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W.P.No.15458 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

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THE HON'BLE MR. JUSTICE G.K. ILANTHIRAIYAN

**W.P.No.15458 of 2021 and
W.M.P. Nos.16384 of 2021 & 5868 of 2022**

K.Rajendran

... Petitioner

Vs.

1.The Deputy Registrar of Cooperative Societies,
Virudhachalam Circle,
Cuddalore District.

2. II 533, Kavanur Primary Agricultural
Cooperative Societies Ltd.,
Rep. by its President,
Kavanur Post, Srimusnam Taluk,
Cuddalore District.

3.The Registrar of Cooperative Societies,
No.170, N.V.Maligai, Kilpauk, Chennai - 10.

(R3 impleaded vide order dated 29.09.2021
made in W.M.P.No.17816 of 2021 in
W.P.No.15458 of 2021 by NAVJ)

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Certiorari, calling for the records of the surcharge
order passed by the 1st respondent in Na.Ka.No.402 of 2021 sa.pa dated
07.07.2021 quash the same.



W.P.No.15458 of 2021

For Petitioner : Mr.M.S.Palaniswamy

For Respondents : Mr. V.Nanmaran
Additional Government Pleader
for R1 and R3

Mrs.S.Anitha
for R2 - No appearance

ORDER

The writ petition has been filed, challenging the surcharge order dated 07.07.2021 passed by the first respondent.

2. The petitioner, while he was working as Secretary of the second respondent Society, a complaint has been lodged against him. On the said complaint, an enquiry was ordered under Section 87 of the Tamil Nadu Co-operative Societies Act. On the basis of the enquiry report submitted by the enquiry officer, the first respondent proceeded with the surcharge award enquiry. The petitioner, on receipt of a surcharge notice dated 06.02.2021, submitted his representation on 20.03.2021, seeking a copy of the enquiry report and other documents, which were relied upon before the enquiry officer, to submit his explanation. Though the petitioner was directed to visit the office of the first respondent and also directed to take a photocopy of the



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enquiry report, marked with other document by the communication dated 08.06.2021 and 25.05.2021, the petitioner failed to avail the remedy granted by the first respondent. Therefore, the petitioner approached this Court in W.P. No.13168 of 2021 seeking for a mandamus, forbearing the first respondent from proceeding under Section 87 of the Tamil Nadu Cooperative Societies Act, pursuant to the surcharge notice dated 06.02.2021 issued to the petitioner, without furnishing the copies of the documents requested by the petitioner's letter dated 20.03.2021. This Court, vide order dated 23.06.2021, directed the first respondent to consider the representation, submitted by the petitioner dated 20.03.2021, on merits and to furnish the copies of the documents and enquiry report dated 02.12.2020 as soon as possible within a period of four weeks from the date of receipt of the copy of the said order and till such time, the first respondent was deferred from issuing the surcharge proceedings, initiated as against the petitioner under Section 87 of the Tamil Nadu Cooperative Societies Act.

3. Without obeying the said order, the first respondent proceeded with the surcharge award proceedings and passed award on 07.07.2021. In the meanwhile, the petitioner filed contempt petition in Cont. P. No.1350 of



2021. However, the said contempt petition was closed by an order dated 22.04.2022 on the ground that the order dated 23.06.2021 passed by this Court was not communicated to the first respondent to comply the same.

4. Admittedly, the petitioner was not served with any enquiry report and was not given any opportunity to put forth his grievance against the issuance of surcharge notice dated 06.02.2021, which is a clear violation of principles of natural justice and as such, the order impugned dated 07.07.2021 cannot be sustained as against the petitioner.

5. In view of the above observation, the award dated 07.07.2021 is quashed and the matter is remanded back to the first respondent for fresh disposal. Therefore, the first respondent is directed to serve enquiry report and other documents, which were relied upon before the enquiry officer, within a period of one week from the date of receipt of a copy of this order. On receipt of the same, the petitioner is at liberty to submit his explanation, within a period of two weeks thereafter before the first respondent. This Court directs the first respondent to conclude the surcharge proceedings, within a period of eight weeks thereafter.



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6. Accordingly, this writ petition is allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

24.10.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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