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W.P.No.15714 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2024

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.15714 of 2024

and

W.M.P.No.17125 of 2024

1. K.S.Ravi

2. N. Vijayakumar

3.K.Vijayamoorthy

4.R. Sivakumar

5.M.Chithra

6. C.Umarani

...Petitioners

Vs

1.The Registrar of Co-operative Societies,
Chennai – 600 010.

2.The Joint Registrar of Co-operative societies,
Salem Region, Salem.

3. The Deputy Registrar of Co-operative Societies,
Salem.

4. S.S-10, Ayothiyaptinam Panchayat Union
Elementary and Middle Schools,
Ayothiyapatnam Post, Salem District

...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent relating to the show cause notice in Na.Ka.No.12909/2022/Sa.P.a., dated 23.05.2024 to quash the same and pass orders.

For Petitioner	: Mr.P. Rajendiran
For Respondents 1,2 and 3	: Mrs.M. Geetha Thamarai Selvan Special Government Pleader
For Respondent-4	: Mr.D.Ravichandran Special Government Pleader

ORDER

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent relating to the show cause notice in Na.Ka.No.12909/2022/Sa.P.a., dated 23.05.2024 to quash the same.

2. In view of the consent expressed by the learned counsel appearing for either side, this petition is taken up for final disposal at the admission stage itself.



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3. The case of the petitioners are that they functioning as President and Directors of the Board of Management of the fourth respondent and they are discharging their duties without any personal gain. While so, the 3rd respondent herein in Pro.Na.Ka.No.4338/2021/Na.Va(1) dated 28.01.2022 ordered an enquiry against the petitioner under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983. Thereafter, on 04.08.2022 the enquiry officer submitted a report wherein the enquiry officer recommended to initiate action against the petitioners under Section 36 of the Tamil Nadu Co-operative Societies Act, 1983 in view of the irregularities allegedly committed by them between 01.04.2017 to 24.01.2022. Thereafter, the second respondent in Na.Ka.No.12909/2022/Sa.Pa dated 23.05.2024 has issued a Show cause notice under Section 36 of the Tamil Nadu Co-operative Societies Act 1983 to the petitioners herein as to why they should not be disqualified permanently from functioning as Director in this Co-operative society or any other co-operative society. The sum and substance of the case is that one person by name S.Ashokan who is the former Secretary of the society has admitted that he was responsible for the alleged irregularities and he has remitted a total sum of Rs.70,06,927/- on various dates to the



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society and receipts issued are also issued to the same and there was no loss to the society. Hence, the petitioners gave a representation to the Superintendent of Police, Commercial Crime Investigation Wing, Chennai – 600 032, enclosing the receipts issued by the Society to the said Ashokan on 30.08.2023 and 09.10.2023. When this being the case, the second respondent herein has blindly issued the show cause notice dated 23.05.2024, which is the impugned order herein. Aggrieved over the same the petitioners have come up with this petition.

4.The learned counsel for the petitioner submitted that the second respondent failed to consider that the petitioners have not committed any misappropriation of societies funds or fraudulently retained any money and passed the impugned order mechanically. He further submitted as the former Secretary of the society one S.Ashokan has paid the alleged amount to the society and the same was not taken note by the respondents. Hence, prays to allow this petition.

5.The learned Special Government Pleader appearing for the Respondents produced a letter dated 18.06.2024 in Na.Ka.No.4338/2021



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wherein it has been stated that in Na.Ka.No.12909/2022/Sa.P.a., dated 23.05.2024 they have only sought explanations from the petitioners as to why they should not be disqualified permanently from functioning as Director in this Co-operative society or any other co-operative society. He further submitted that the petitioners have not given any explanations so far.

6. On a perusal of records it is seen that the former Secretary of the society one S.Ashokan has paid Rs.70,06,927/- for the alleged irregularities and also produced the receipts. Further more in the impugned order the second respondent have only sought explanations from the petitioners as to why they should not be disqualified permanently from functioning as Director in this Co-operative society or any other co-operative society.

7. In view of the above it is seen that the petitioners have to give explanations to the show cause notice/Na.Ka.No.12909/2022/Sa.P.a., dated 23.05.2024 issued to them. Hence, the petitioners are directed to approach the concerned authorities and give explanations to the show



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cause notice as expeditiously as possible. After receipt of the explanations given by the petitioners the respondents can proceed in the manner known to law.

8. With the aforesaid direction, this Writ Petition stands disposed of. No costs. Consequently the connected miscellaneous is closed.

19.06.2024

Index: Yes/No

Speaking order/Non-speaking order

smn

To

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4. S.S-10, Ayothiyapatinam Panchayat Union
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V.BHAVANI SUBBAROYAN,J.

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19.06.2024
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