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W.P.No.29691 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2024

CORAM:

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

W.P.No.29691 of 2024
W.M.P.No.32343 of 2024

Munusamy

...Petitioner

-Vs-

1. The Deputy Registrar of
Co-operative Societies,
Office of the Deputy Registrar
of Co-operative Societies,
Villupuram Region, Villupuram,
Villupuram District.
2. Section 81 Enquiry Officer/
Co-Operative Sub Registrar,
Office of the Deputy Registrar
of Co-Operative Societies,
Villupuram, Villupuram District.
3. The Joint Registrar /
Managing Director,
Villupuram District Central Co-Operative Bank,
Villupuram, Villupuram District.
4. The Deputy Registrar of Co-Operative Societies,
Jayapuram, Tindivanam,
Villupuram District.

... Respondents



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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 first respondent impugned proceedings in Na.Ka.1434/2023 dated 29.07.2024.

For Petitioner : Mr.S.Sairaman
For Respondents : Mr.S.Ravikumar
Special Government Pleader

ORDER

The writ petition has been filed challenging the show cause notice issued by the first respondent dated 29.07.2024, for initiating proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. (hereinafter referred to as “the TNCS Act”).

2. The petitioner was working as Assistant in the third respondent bank during the month of January 2019 to July, 2023. There were malpractices in customers loan account and various savings bank accounts, due to which, enquiry was ordered under Section 81 of the TNSC Act, by the first respondent. The second respondent was authorized as enquiry officer and he conducted enquiry. He submitted detailed enquiry report as contemplated under Section 81 of the TNCS Act on 27.02.2024. Based on which, the first respondent initiated surcharge proceedings as against the petitioner and others. In pursuant to



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the said proceeding, the petitioner was issued with show cause notice to submit explanation within a period of fifteen days from the date of receipt of the show cause notice dated 29.07.2024, by serving the enquiry report. Aggrieved by the same, the petitioner filed the present writ petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner was working as Assistant in the third respondent bank and he found some malpractices done by the Branch Manager. Therefore, he only informed the management by the complaint dated 23.06.2023. On the strength of the said complaint, enquiry was ordered under Section 81 of the TNCS Act. Therefore, the petitioner is nothing to do with the allegations as alleged in the show cause notice. Further, the first respondent has no jurisdiction to proceed with the surcharge proceeding, since the defalcation was happened in Avalurpet and Gingee Branches. Both branches are in the Dindivanam area under the Deputy Registrar of Co-operative Societies, Dindivanam.

3.1. He further submitted that the manager of the third



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respondent bank was responsible for the entire misappropriation. Even then, the petitioner was served with notice to an extend of Rs.42,00,000/- to be recoverable. Further the petitioner is not in a position to submit explanation in proper manner, since he was not served with certified copies of enquiry report and other documents which are mentioned in the enquiry report. The surcharge proceeding is nothing but quasi judicial proceeding and to follow the procedure as contemplated under Section Civil Procedure Code. Therefore, the first respondent ought to have supplied the copies of the documents which were sought for by the petitioner before initiation of the proceeding under Section 87 of the TNCS Act.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. On perusal of the records revealed that when the petitioner was working as Assistant on the third respondent, there was misappropriation and malpractice done by the Manager, petitioner and others. Therefore, enquiry was ordered under Section 81 of the TNCS Act. During the enquiry it was found that huge amount was



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misappropriated from the third respondent bank from the customers account and loan account. In pursuant to the enquiry report, the surcharge proceeding was ordered under Section 87 of the TNCS Act. In order to initiate the surcharge proceeding, the petitioner was served with show cause notice by the first respondent.

6. Further, the first respondent is not an authority who is going to conduct the proceeding under Section 87 of the TNCS Act. Before initiation of surcharge proceeding, the first respondent issued show cause notice to the petitioner. The petitioner will be provided adequate opportunity in the surcharge proceeding as per the procedure contemplated under Section 87 of the TNCS Act. It is true that the proceeding under Section 87 of the TNCS Act is a quasi judicial proceeding and the authority concerned should follow the procedure contemplated under the Civil Procedure Code.



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7. In fact, on the request made by the petitioner, he was given opportunity to pursue the documents during the office hours and the petitioner failed to avail that opportunity and also did not submit explanation so far, for the show cause notice issued by the first respondent. The order impugned in this writ petition is mere show cause notice and it cannot be said that the first respondent issued it without jurisdiction.

8. In view of the above discussions, this Court finds no infirmity or illegality in the show cause notice issued by the first respondent and the writ petition itself devoid of merits and liable to be dismissed. However, the authority concerned is directed to follow the procedure as contemplated under the law and complete the surcharge proceedings after giving opportunity of hearing, cross-examination of witness to the petitioner and pass order in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this Order.



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9. Accordingly, the Writ Petition stands dismissed.

Consequently, connected miscellaneous petition is closed. There shall be no orders as to costs.

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Index : Yes/No

Speaking/Non Speaking order

Neutral Citation : Yes/No

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