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W.P.No.30845 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2024

CORAM:

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

W.P.No.30845 of 2018
and W.M.P.Nos.35994, 35996 of 2018 & 23038 of 2020

G.Rajaraman

...Petitioner

-Vs-

The Deputy Registrar of
Co-operative Societies,
Maduranthagam Circle,
Maduranthagam,
Kancheepuram District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the respondent in his proceedings Na.Ka.3173/2017/AA1, dated 27.09.2018 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondent : Mr.P.Ganesan
Additional Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the respondent dated 27.09.2018, thereby ordered for enquiry under Section 81 of the Tamilnadu Co-operative Societies Act (hereinafter



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referred to as “TNCS Act”) and also appointing an enquiry officer to complete the same.

2. The petitioner was elected as President in Nerkunam Primary Agricultural Co-operative Credit Society. While being so, the respondent ordered for enquiry under Section 81 of the TNCS Act on 27.12.2017, alleging some irregularities committed by the petitioner while issuing of THADCO loan during the year 2014 to 2017. The enquiry officer was appointed and conducted enquiry. On submission of report, the respondent found that the enquiry report in favour of the petitioner and ordered for another enquiry and appointed different officer under Section 81 of the TNCS Act. Once again, the respondent cancelled the appointment of the second enquiry officer, by appointing another enquiry officer by an order dated 27.08.2024.

3. The learned counsel appearing for the petitioner submitted that the respondent has no jurisdiction to order for enquiry, after completion of the enquiry under Section 81 of the TNCS Act. Once the enquiry conducted and submitted report, the respondent would not have ordered for fresh enquiry that too on third occasion.



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

5. On perusal of the counter filed by the respondent and on the submission made by the learned Additional Government Pleader revealed that the enquiry officer conducted enquiry under Section 81 of the TNCS Act and submitted report on 04.04.2018. It was perfunctory and incomplete. The respondent had reviewed the enquiry report and found so many deficiencies. Therefore, the enquiry report was cancelled and ordered for fresh enquiry. In fact, the report of the inspection team recommended to take prosecution action as against the petitioner and others for their intentionally included the two medium term loans issued for centering sheet under agricultural loan waiver scheme which is meant for agricultural loans alone. Further on perusal of the enquiry report, there was no recommendation for prosecution.

6. That apart, several loans were closed within 5 to 6 months from the date of sanctioned by remitting the entire loan at one time.

However, the enquiry report revealed that said issued was not verified



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whether the loans were utilized for the purpose for which they were sanctioned, whether properties twice the value of loans have been got mortgaged, what is the owned funds and details of recovery of excess interest. All the detailed were not enquired by the enquiry officer.

7. That apart, the respondent has power to order second and third enquiry under Section 81 of the TNCS Act. It is relevant to extract the provision under Section 81 of the TNCS Act as follows :-

“81.Inquiry. - (1) The Registrar may, of his own motion and shall, on the application of a majority of the board or of not less than one third of the members or on the request of the financing bank or of the District Collector, hold an inquiry, or direct some person authorised by him by order in writing in this behalf to hold an inquiry in to the constitution, working and financial condition of a registered society or any alleged 54 misappropriation, fraudulent retention of any money or property, breach of trust, corrupt practice or mismanagement in relation to that society or into any particular aspect of the working of that society.

(2) The Registrar or the person authorised by him under sub-section (1) shall have the following powers, namely:___

(a) He shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other



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properties belonging to, or in the custody of, the society and may summon any person in possession of, or responsible for the custody of, any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.

(b) Where any person summoned under clause (a) fails or refuses to produce any record or property of the registered society as specified in the summons, any Metropolitan Magistrate or any Judicial Magistrate of the first class in whose jurisdiction the office of such society or the records and properties of such society is or are situated , shall on application by the Registrar or the person authorised by him under sub-section (1), direct the delivery to the Registrar or such person of the possession of the records and properties of such society :

Provided that no such application shall be made by the person authorised under sub - section (1) without the previous sanction of the Registrar.

(c) He may seize the books, accounts or documents of the society, if he considers that such seizure is necessary to ensure the safety of such books, accounts or documents or to facilitate his inquiry, and shall give the person from whose custody the books, accounts or documents have been seized a receipt for the same: Provided that the books, accounts or documents seized shall be retained by him only for so long as



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may be necessary for their examination and for the purpose of inquiry: Provided further that the books, accounts or documents shall not be retained for more than three months at a time except with the permission of the next higher authority.

(d) He may summon any person who, he has reason to believe, has knowledge of any of the affairs of the society and may examine such person on oath and may summon any person to produce any books, accounts or documents belonging to him or in his custody if the Registrar , or the person authorised as afore said has reason to believe that such books, accounts or documents contain any entry relating to transactions of the society.

(e) (i) He may, notwithstanding any rule or by – law specifying the period of notice for a general meeting of the society or for a meeting of the board, require any officer or officers of the society to call a general meeting or a meeting of the board at such time and place at the headquarters of the society or any branch thereof to consider such matters as may be specified by him and the provisions 55 of sub - clauses (i) and (ii) of clause (b) of sub-section (4) of section 32 shall apply to any meeting called under this sub-clause as if it were a meeting called in pursuance of a requisition under clause (a) of sub-section (3) of that section. (ii) If the officer or officers of the society refuses or refuse or fails to call such meeting or if in the opinion of the Registrar there is no board



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or officer or officers competent under this Act, the rules or the by-laws to call such meeting, or if there be an order of the Registrar or of the Civil Court restraining the board to function, the Registrar or the person authorised by him under sub-section (1) shall have power to call the meeting himself and the provisions of clause (b) of sub-section (4) of section 32 and sub- section (5) of that section shall apply to such meeting as if it were a meeting called under clause (a) of the said sub- section (4).

(3) When an inquiry is held under this section, the Registrar shall within such time as may be prescribed communicate the result of the inquiry — (i) in case the Government have subscribed directly to the share capital of the registered society or in case any moneys are due from the registered society either to the Principal State Partnership Fund or to the Subsidiary State Partnership Fund referred to in chapter VI, to the Government or to any officer appointed by the Government in this behalf; (ii) to the financing bank, if any, to which the society is affiliated; and (iii) to the society concerned.

(4) The inquiry shall be completed within a period of three months from the date of ordering the inquiry or such further period or periods not exceeding three months at a time as the next higher authority may permit provided that such extended periods shall not exceed six months in the



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aggregate.

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(5) It shall be competent for the Registrar to withdraw any inquiry from the person authorised by him under sub-section (1) and to hold the inquiry himself or entrust it to any other person as he deems fit.

(6) The Registrar may, by order in writing, direct the registered society or any officer of the society or its financing bank to take such action as may be specified in the order to remedy, within such time as may be specified therein, the defects, if any, disclosed as a result of the inquiry.”

Thus it is clear that the respondent has power to order enquiry under Section 81 of the TNCS Act. Therefore, this Court finds no infirmity or illegality in the notice dated 27.09.2018, thereby appointing the enquiry officer to conduct enquiry under Section 81 of the TNCS Act.

8. Accordingly, the Writ Petition stands dismissed. Consequently, connected miscellaneous petition are also closed. There shall be no orders as to costs.

02.09.2024

Internet : Yes
Speaking/Non Speaking order
Neutral Citation : Yes/No

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To
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The Deputy Registrar of
Co-operative Societies,
Maduranthagam Circle,
Maduranthagam,
Kancheepuram District.



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G.K.ILANTHIRAIYAN. J,

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