



W.P.(MD)No.13119 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.13119 of 2019

and

W.M.P.(MD)Nos.9779 and 9780 of 2019 and 9556 of 2020

N.Govindaraj

... Petitioner

versus

1. The Registrar (Co-operative Societies)

N.V.S.Malikai,
Kilpauk,
Chennai.

2. The Deputy Registrar (Co-operative Societies),

Paramakudi,
Ramanathapuram District.

3. Mr.S.Ravichandran,

The Sub Registrar (Co-operative Societies),
Nainarkoil,
Paramakudi Taluk,
Ramanathapuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.242/2018, Tho.Ve.Koo.Ka.Sa.dated 11.05.2018 on the file of the Respondent No.2 and



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quash the as illegal to the extent of appointing the Respondent No.3 as the Enquiry Officer and consequently to direct the Respondent No.2 to change the Enquiry Officer to enquire into the allegations levelled against the petitioner as contained in the impugned order dated 11.05.2018 within the time stipulated by this Court.

For Petitioner : Mr.S.Louis

For R1 and R2 : Mr.K.Balasubramani,
Special Government Pleader

ORDER

The petitioner, who was working as a Secretary of Vallam Primary Agriculture Co-opeartive Socieity, Nainarkoil, was suspended by order dated 30.01.2018 on certain allegations that he caused financial loss to the Society. Thereafter, the 2nd respondent, by order dated 11.05.2018, appointed the 3rd respondent as Enquiry Officer and directed to conduct an enquiry into the affairs of the Society under Section 81 of the Tamil Nadu Cooperative Societies Act. Challenging the same, the petitioner has filed this writ petition.



2. The learned counsel appearing for the petitioner submits that the 3rd respondent, a Field Officer, is inimical to the petitioner, therefore, the enquiry report would be a biased one.

3. The interference at the stage of enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, has already been decided by this Court in ***WP(MD)Nos.2539 to 2361 of 2023 dated 06.02.2023 (Arumuga Nainaar and another vs. The Registrar of Co-operative Societies (Housing), Tamil Nadu Co-operative Housing Federation, Chennai)*** as under:

“3. I have consistently held that the report under Section 81 of the Act is not binding. The authority may accept the same or reject it. If the authority accepts the report, he can only take consequential action. At that stage, all the rights of the noticees are available. The findings/final enquiry are neither conclusive nor binding. They only furnish cause of action for initiating further action. When further action is taken, the petitioners can always establish their innocence. The parameters set out in Section 88 and Section 87 or Section 36 of the Act will have to be independently shown to exist. The authority cannot treat the report under Section 81 of the Act as having given a



conclusion for everything. Even when consequential action is taken, the principles of natural justice will have to be fully complied with. It is for this reason, I decline to entertain the challenge to the enquiry report.”

4. A Division Bench of this Court in ***W.A.(MD)No.345 of 2023, dated 24.03.2023 (Arumuga Nainaar vs. The Registrar of Co-operative Societies (Housing), Tamil Nadu Co-operative Housing Federation, Chennai)*** has also held as under:

“2. The challenge was before the Writ Court to the proceedings under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as 'the Act'). The Writ Court refused to interfere with the order launching proceedings under Section 81 of the Act on the ground that any finding rendered in proceedings under Section 81 of the Act, is only recommendatory and hence, the same cannot be subject matter of challenge. The Writ Court has also left it open to the writ petitioner to challenge the correctness of the enquiry conducted under Section 81 of the Act, in the proceedings that may be taken in future. Hence, we do not see any reason to entertain this writ appeal.”



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5. This Court is not inclined to interfere at the stage of enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act. The petitioner is having every right to defend his case, in the event, if any action is taken based on the enquiry report. Moreover, in this case, the enquiry was ordered on 11.05.2018. The enquiry report was filed on 19.12.2018. But, the petitioner has filed this writ petition on 10.06.2019, i.e. after a period of six months from the date of filing the enquiry report. Therefore, this Court is not inclined to entertain this writ petition.

6. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

1. The Registrar (Co-operative Societies)
N.V.S.Malikai,
Kilpauk,
Chennai.

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2. The Deputy Registrar (Co-operative Societies),
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Ramanathapuram District.

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