



W.P(MD)No.12737 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2024

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.12737 of 2020

and

W.M.P.(MD)Nos.10820 & 10822 of 2020

D.Karunanidhi

... Petitioner

**Vs.**

1.The Registrar of Cooperative Societies,  
N.V.Natarajan Maaligai,  
No.170, Periyar EVR High Road,  
Kilpauk, Chennai-600 010.

2.The Joint Registrar of Co-operative Societies,  
Medical College Road,  
Thanjavur.

3.The Deputy Registrar of Co-operative Societies,  
Medical College Road,  
Thanjavur.

4.P.Senthil Kumaran,  
Cooperative Sub Registrar/Enquiry Officer,  
T.990 Thanjavur District State Government  
Employees Consumer Cooperative Store,  
Old Collectorate Campus,  
Court Road, Thanjavur-613 001.

5.T.990 Thanjavur District State Government  
Employees Consumer Cooperative Store,  
Rep. by its President,  
Old Collectorate Campus,  
Court Road, Thanjavur-613 001.

... Respondents



W.P(MD)No.12737 of 2020

**Prayer** : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the second respondent in Na.Ka.No. 6972/2016/Sapa, dated 11.04.2020 and quash the same.

For Petitioner : Mr.M.Saravanan

For Respondent : Mr.V.Nirmal Kumar  
Government Advocate for R1 to R3 & R5

: no appearance for R4

### **ORDER**

Heard both sides.

2. The petitioner was holding the post of Vice President of the fifth respondent society. The society was established way back in the year 1944. Only Government servants can become members of the fifth respondent society. The object of the society is to procure groceries and other materials and sell the same to its members and general public. Since certain complaints were received as regards functioning of the society, enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 was ordered. The enquiry report was submitted on 12.08.2016. Based on the enquiry report, the Joint Registrar of Co-operative Society, Thanjavur proposed to initiate disqualification



W.P(MD)No.12737 of 2020

proceedings under Section 36 of the Act. After receiving notice dated 20.12.2018, the petitioner submitted representation dated 31.12.2018 calling upon the authority to furnish the *inter alia* copy of the enquiry report dated 12.08.2016. It is beyond dispute that this written request was very much received by the authority on 10.01.2019. Instead of furnishing the copy of the report, the petitioner was permitted to peruse the document in the office of the second respondent. The petitioner however was not satisfied. He repeated his request vide representation dated 27.02.2019 for being furnished with the copy of the document. The authority declined to oblige and passed the impugned disqualification dated 11.04.2020 under Section 36 of the Act. Challenging the same, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for. The learned counsel for the petitioner submits that the request letter was submitted not only on his behalf but also on behalf of the remaining 10 noticees. The notice dated 20.12.2018 issued under Section 36(1) of the Act was a common notice addressed to 11 persons.



W.P(MD)No.12737 of 2020

4. The respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents.

5. The stand of the Additional Government Pleader is that the principles of natural justice have been fully complied with and the authority had passed the impugned order after adhering the statutory requirements set out in Section 37 of the Act. He submitted that there is no merit in the writ petition and called upon this Court to dismiss the same.

6. I carefully considered the rival contentions and went through the materials on record. It is seen that the disqualification order rests on two grounds:-

(I) Illegal engagement of a retired staff without getting prior permission from the department.

(II) Procuring articles from a private entity, even though the Registrar of Co-operative societies had issued circulars dated 18.07.2015 and 10.07.2015 directing the co-operative societies to procure the articles only from Whole Sale Co-Operative Societies. Direction issued by the Registrar of co-operative societies has been breached by the office bearers of the 5<sup>th</sup> respondent society.

7. I need not go into the merits of the matter. Any disqualification



W.P(MD)No.12737 of 2020

proceeding under Section 37 of the Act has serious and grave consequences.

Therefore, it is necessary to fully adhere to the principles of natural justice.

It is well settled that an administrative authority has to furnish the relied upon document to the noticee. Section 36 of the Act states that the disqualification proceedings can be initiated based on the report under Sections 80 to 83 of the Act. Such a document is foundational in character. Therefore, it is not enough to merely facilitate perusal by the noticee. The authority can make available soft copies of the document. Failure to do so constitutes a clear infringement of the principles of natural justice. Since the second respondent had failed to comply with the said mandatory principle even after repeated requests from the petitioner, I have to necessarily set aside the impugned order. It is accordingly set aside. The matter is remitted to the file of the second respondent. The second respondent shall furnish the soft copies of the relied upon documents to the petitioner and after granting an opportunity of personal hearing, pass final order on merits and in accordance with law. I make it clear that I have not gone into the merits of the matter.

7. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

**24.01.2024**

Index : Yes / No

Internet : Yes/ No

rmi



W.P(MD)No.12737 of 2020

**G.R.SWAMINATHAN, J.**

rmi

To

- 1.The Registrar of Cooperative Societies,  
N.V.Natarajan Maaligai,  
No.170, Periyar EVR High Road,  
Kilpauk, Chennai-600 010.
- 2.The Joint Registrar of Co-operative Societies,  
Medical College Road,  
Thanjavur.
- 3.The Deputy Registrar of Co-operative Societies,  
Medical College Road,  
Thanjavur.
- 4.T.990 Thanjavur District State Government  
Employees Consumer Cooperative Store,  
Rep. by its President,  
Old Collectorate Campus,  
**Court Road, Thanjavur-613 001.**

W.P(MD)No.12737 of 2020

24.01.2024