



W.P.(MD)No.17051 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **18.09.2024**

CORAM:

THE HONOURABLE **MR.JUSTICE ABDUL QUDDHOSE**

W.P.(MD)No.17051 of 2018

and

W.M.P.(MD)Nos.15029 & 15030 of 2018

T.Arumugam

... Petitioner

/Vs./

1.The Deputy Registrar of Cooperative Societies,
Thanjavur District.

2.The Cooperative Sub Registrar / Field Officer,
Boothalur,
Enquiry Officer,
T.1731, Sathanur Primary Agricultural
Cooperative Credit Society Ltd.,
Sathanur.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records relating to the incomplete impugned enquiry report dated 30.05.2017 and quash the same.



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For Petitioner : Mr.M.Saravanan
for Mr.R.Ponkarthikeyan
For Respondents : Mrs.D.Farjana Ghoushia (R1)
Special Government Pleader

ORDER

This writ petition has been filed challenging the impugned enquiry report dated 30.05.2017 submitted by the second respondent, pursuant to an enquiry under Section 81 of the Tamilnadu Cooperative Societies Act, 1983.

2. The following facts are undisputed:-

(a) Subsequent to the impugned enquiry report dated 30.05.2017 submitted by the second respondent, pursuant to an enquiry under Section 81 of the Tamilnadu Cooperative Societies Act, 1983, a surcharge order has been passed by the respondents based on the impugned enquiry report dated 30.05.2017 submitted under Section 81 of the Tamilnadu Cooperative Societies Act, 1983.



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(b) The petitioner has also challenged the surcharge order passed by the respondents under Section 87 of the Tamilnadu Cooperative Societies Act, 1983, by filing a regular appeal before the Principal District Court, Tanjore;

(c) The surcharge order passed under Section 87 of the Tamilnadu Cooperative Societies Act, 1983 was passed subsequent to the filing of this writ petition. Admittedly, no interim stay was granted to the impugned enquiry report dated 30.05.2017 by this Court in this writ petition.

3. The learned counsel appearing for the petitioner would submit that despite the fact that subsequently a surcharge order has been passed under Section 87 of the Tamilnadu Cooperative Societies Act, 1983 and the petitioner has also challenged the same by filing a regular appeal before the Principal District Court, Tanjore, the present writ petition is maintainable, as according to him, the procedure contemplated under Section 81 of the Tamilnadu Cooperative Societies Act, 1983 was not followed, as seen from the impugned order. He drew the attention of this



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Court to the relevant provisions of Section 81 of the Tamilnadu Cooperative Societies Act, 1983 for the said contention.

4. The learned counsel appearing for the petitioner also drew the attention of this Court to two orders passed by this Court reported in **2009 (4) LW 427** in the case of ***H.Rajasekar and Others vs. the Deputy Registrar of Cooperative Societies, Krishnagiri Circle, Krishnagiri District and Others***) as well as the decision dated **19.01.2006** passed in ***WP.No.10294 of 2005*** to substantiate his contention that the time limit fixed under Section 81(4) of the Tamilnadu Cooperative Societies Act, 1983 is mandatory.

5. As seen from the aforesaid decisions rendered by this Court, it was a case where the respective petitioners had challenged the surcharge order passed under Section 87 of the Tamilnadu Cooperative Societies Act, 1983, wherein, they had raised one of the grounds that the procedure contemplated under Section 81(4) of the Tamilnadu Cooperative Societies Act, 1983 was not adhered to.



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6. However, in the instant case, it is an admitted fact that subsequent to the filing of this writ petition, the surcharge order has also been passed against the petitioner under Section 87 of the Tamilnadu Cooperative Societies Act, 1983 and the petitioner has also challenged the same by filing a regular appeal before the Principal District Court, Tanjore and the said appeal is also pending consideration by the learned Principal District Judge, Tanjore. There cannot be two parallel proceedings and there cannot be two conflicting decisions.

7. In view of the fact that subsequent to the filing of this writ petition, a surcharge order has been passed based on the enquiry report, and the appeal filed by the petitioner aggrieved by the surcharge order is also under pending consideration, the question of entertaining this writ petition does not arise. The very same grounds that have been raised in this writ petition would have been certainly raised by the petitioner in the appeal filed by him aggrieved by the surcharge order passed under Section 87 of the Tamilnadu Cooperative Societies Act, 1983.



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8. As observed earlier, there cannot be two conflicting decisions rendered by two forums with regard to the same subject matter and when the impugned enquiry report has culminated into final surcharge order passed under Section 87 of the Tamilnadu Cooperative Societies Act, 1983, which has also been challenged separately by the petitioner by filing a regular appeal and the said surcharge order is also based on the very same impugned enquiry report, this Court does not deem it fit to interfere with the impugned enquiry report in this writ petition leaving it open for the petitioner to raise all grounds including the grounds that have been raised in this writ petition in the regular appeal filed by the petitioner, which is pending consideration before the Principal District Court, Tanjore.

9. For the foregoing reasons and in view of the aforesaid observations, this writ petition is disposed of by granting liberty to the petitioner to raise all grounds including the grounds that have been raised in this writ petition in the appeal filed by the petitioner aggrieved by the surcharge order passed under Section 87 of the Tamilnadu Cooperative Societies Act, 1983, which is now pending consideration in the appeal



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filed by the petitioner before the Principal District Court, Tanjore. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
NCC : Yes / No
Sm

TO:-

- 1.The Deputy Registrar of Cooperative Societies,
Thanjavur District.



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ABDUL QUDDHOSE, J.

Sm

Order made in
W.P.(MD)No.17051 of 2018

Dated:
18.09.2024