



W.P.(MD).No.22090 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.22090 of 2024

and

W.M.P.(MD).Nos.18714 & 21533 of 2024

M.Muthukrishnan

... Petitioner

-VS-

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

2. The Deputy Registrar of Cooperative Societies,
Nagercoil,
Kanayakumari District.

3. The Cooperative Sub Registrar,
Nagercoil,
Kanyakumari District.

4. The Administrator,
KN 77 Aralvaimozhy,
Cooperative Credit Society Ltd.,
Aralvaimozhy,
Kanayakumari District.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to impugned proceedings of the second respondent in surcharge case No.1/2024-2025 sp(Na.Ka.No.1683/2024sp) dated 27.08.2024 and quash the same.

For Petitioner	: Mr.V.R.Shanmuganathan
For Respondent Nos.1 to 3	: Mr.Veerakathiravan, Additional Advocate General Assisted by Mr.D.Sasikumar Additional Government Pleader
For Respondent No.4	: Mr.R.Maheswaran

ORDER

The instant writ petition has been filed by a Clerk of the Cooperative Society, challenging the show cause notice issued under Section 87 of Tamilnadu Cooperative Societies Act.

2. The impugned show cause notice has been challenged on the following grounds :

a) Such a notice can be issued only by the Registrar or any other person authorized by him. However, the present notice has been issued by a Deputy Registrar.



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b) Along with impugned notice, Section 81 enquiry report has not been served.

3. The learned Counsel appearing for the writ petitioner herein had contended that Section 87 notice having been issued by an incompetent authority and such a notice not been recommended in the enquiry report, is liable to be set aside. The learned Counsel appearing for the writ petitioner relied upon the judgement of this Court in 2009(1) CTC Page.473 and another judgement in L.Ranaganathan Vs The Deputy Registrar of Cooperative Societies dated 05.09.2006, and also relied upon the judgement of this Court in W.P.No.2103 of 2018 dated 12.02.2018, and contended that unless the enquiry notice is accompanied by the report under Section 81 of the enquiry, the same is not maintainable.

4. Per contra, the learned Additional Advocate General appearing for the respondent Nos.1 to 3 herein had relied upon the Government Order in G.OMs.(2d).No.108, Cooperation, Food and Consumer Protection Department dated 31.08.2005, and contended that the Deputy Registrars of



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Cooperative Societies are authorized to exercise the powers of the Registrar, as far as Section 87 proceedings are concerned. He further contended that pending writ petition, the petitioner was furnished with a copy of the enquiry report under section 81 of the Cooperative Societies Act on 29.10.2024. So far, the enquiry has not been proceeded with therefore and no prejudice caused to the writ petitioner.

5. Heard both sides'. Perused all the materials available on record.

6. Considering the fact that Section 87 notice has been issued by the competent authority namely the Deputy Registrar of Cooperative Society as per the above said government order and the petitioner has been furnished with the Section 81 enquiry report on 29.10.2024, this Court is of the considered opinion that, challenge made section 87 notice is not legally sustainable. The petitioner having received the section 81 enquiry report is at liberty to defend the said proceedings in accordance with law.



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7. With the above said observations, this writ petition is disposed of.

No costs. Consequently, connected miscellaneous petitions are closed.

13.12.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
gvn

To

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2. The Deputy Registrar of Cooperative Societies,
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R.VIJAYAKUMAR,J.

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