



W.P.(MD).No.23812 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 29.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.23812 of 2024

and

W.M.P(MD) Nos.20153 to 20155, 23536 and 23538 of 2024

J.Roch Sekar

... Petitioner

Vs.

1. The Registrar of Co-operative Societies

(Housing)

Office of the Registrar of Cooperative Societies,
No.50, Ritherdon Road,
Vepery, Chennai – 600 007.

2. The Joint Registrar of Cooperative Societies,

Office of the Joint Registrar of Co-operative Societies,
Tiruchirappalli Region,
Government Multistoried Building,
Kajamalai, Tiruchirappalli.

3. The Regional Deputy Registrar of Co-operative

Societies, (Housing)

Office of the Regional Deputy Registrar
of Co-operative Societies,
No.16/1, Samadhu School Street,
Kaja Nagar, Mannarpuram,
Tiruchirappalli.

... Respondents



W.P.(MD).No.23812 of 2024

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Charge Memorandum vide Na.Ka. 1696/2023/ அபஅ நாள்: 30.01.2024 issued by the third respondent and the consequential show cause notice vide Na.Ka 671/2024/ அபஅ நாள்: 01.07.2024 issued by the second respondent and quash the same and consequently directing the respondents to include the name of the petitioner in the panel of Co-operative Sub-Registrar to be promoted to the post of Deputy Registrar of Co-operative Societies.

For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.D.Sasikumar
Additional Government Pleader

ORDER

The instant Writ Petition has been filed by a Co-operative Sub-Registrar, challenging the Charge Memo issued to him on 30.01.2024 by the third respondent herein.

2. According to the learned counsel appearing for the writ petitioner, the petitioner was appointed as an Enquiry Officer under Section 81 of the Tamil Nadu Co-operative Societies Act, by the Deputy Registrar by way of



W.P.(MD).No.23812 of 2024

proceedings, dated 24.11.2022. He has submitted the enquiry report on 03.04.2023. Not being satisfied with the report, a Memo was issued to the writ petitioner on 27.04.2023 alleging various irregularities in the conduct of the enquiry as well as for not recommending action as against the delinquent therein. The petitioner has submitted his explanation to the said Memo on 05.05.2023.

3. In order to verify the allegations made against the writ petitioner as an Enquiry Officer, a Joint Registrar was appointed to conduct an enquiry. He has submitted two reports on 03.04.2023 and 03.06.2023, wherein he has recommended for cancelling the enquiry report and for ordering fresh enquiry. The Registrar has chosen to accept the said report and has passed an order on 20.12.2023 cancelling the enquiry conducted by the writ petitioner under Section 81 of Tamil Nadu Co-operative Societies Act and he has ordered for fresh enquiry.

4. On 30.01.2024, the present charge memo has been issued to the writ petitioner. As per the first count of the charge memo it is alleged that the petitioner has not properly conducted the enquiry under Section 81 of Tamil



W.P.(MD).No.23812 of 2024

WEB COPY

Nadu Co-operative Societies Act and he has not recommended surcharge proceedings as against the Special Officer of the concerned Co-operative Society. It is also alleged that the petitioner has not recommended for criminal action as against the said Special Officer. The second count of allegation as against the writ petitioner is that the petitioner has alleged that the Deputy Registrar has pressurised him to pass orders as against the Special Officer of the concerned Society.

5. According to the learned counsel appearing for the writ petitioner, no departmental action could be initiated as against the Officer who is functioning as a quasi judicial authority. If there is any error in his report for an order, the same it to be rectified by the Higher officials. He further contended that as per Section 81 (6) of the Tamil Nadu Co-operative Societies Act, even without a recommendation, the Deputy Registrar is entitled to initiate appropriate proceedings as against the delinquents whose names are mentioned in the enquiry report. He further contended that the Registrar or the Deputy Registrar, as it may be, he is entitled to initiate surcharge proceedings under Section 81 of the Tamil Nadu Co-operative Societies Act, even without recommendation by the Enquiry Officer. In such circumstances,



W.P.(MD).No.23812 of 2024

the issuance of a charge memo making allegations as against the defects in the enquiry report, is not legally sustainable.

6. The learned counsel appearing for the writ petitioner has also relied upon the judgment of this Court in W.P(MD) No. 8825 of 2008, dated 17.09.2010, wherein this Court has quashed the charge memo issued as against the enquiry officer under the Co-operative Societies Act, on the ground that such a charge memo is not sustainable. He further relied upon the another judgment of this Court in W.P(MD) No.16052 of 2015 dated 23.01.2020, wherein this Court has quashed the punishment order as against the Co-operative Sub Registrar on the ground that, for the alleged defects in the enquiry report, departmental proceedings cannot be issued.

7. Per contra, the learned Additional Government Pleader appearing for the respondents herein pointed out that for the impugned charge Memo dated 30.01.2024, the petitioner has submitted his explanation on 15.05.2024. The enquiry report has been submitted on 27.05.2024 and a show cause notice has been issued to the writ petitioner on 01.07.2024 calling for further explanation. Without submitting further explanation, the present writ petition



W.P.(MD).No.23812 of 2024

has been filed and an order of *status quo* has been obtained by the writ petitioner. He further contended that the petitioner has not properly conducted an enquiry and he has not recommended for the departmental action or criminal action as against the Special Officer of the concerned Society. He further contended that at this length of time, the charge memo may not be quashed.

8. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on record.

9. The facts narrated above will clearly indicate that the petitioner has participated in the enquiry proceedings pursuant to the impugned charge memo dated 30.01.2024 and the enquiry has been completed and at the time of filing the writ, already second show cause notice has been issued to the writ petitioner on 01.07.2024. At this length of time, this Court does not find any reason to interfere in the charge memo.

10. Therefore, this Court finds that the petitioner could be granted liberty to raise all the defence in his explanation to be offered to the second



W.P.(MD).No.23812 of 2024

WEB COPY

show cause notice dated 01.07.2024. The second respondent is directed to consider all the defects raised by the writ petitioner in his explanation to be submitted to the second show cause notice and pass a reasoned order after giving due opportunity to the writ petitioner within a period of twelve weeks from the date of receipt of submission of explanation by the writ petitioner.

11. With the above said observations, this Writ Petition stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

29.11.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi



WEB COPY



W.P.(MD).No.23812 of 2024

To

1. The Registrar of Co-operative Societies
(Housing)
Office of the Registrar of Cooperative Societies,
No.50, Ritherdon Road,
Vepery, Chennai – 600 007.
2. The Joint Registrar of Cooperative Societies,
Office of the Joint Registrar of Co-operative Societies,
Tiruchirappalli Region,
Government Multistoried Building,
Kajamalai, Tiruchirappalli.
3. The Regional Deputy Registrar of Co-operative
Societies, (Housing)
Office of the Regional Deputy Registrar
of Co-operative Societies,
No.16/1, Samadhu School Street,
Kaja Nagar, Mannarpuram,
Tiruchirappalli.



WEB COPY



W.P.(MD).No.23812 of 2024

R.VIJAYAKUMAR,J.

ebsi

W.P(MD)No.23812 of 2024

29.11.2024