



W.P.No.1744 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2025

WEB COPY

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.1744 of 2025andW.M.P.No.1994 of 2025

B.Krishnamoorthy

...Petitioner

-Vs-

The Deputy Registrar of Cooperative Societies/  
Surcharge Officer,  
Tiruvannamalai.

...Respondent

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent in Tha.Tee.No.06/2024-2025Sa.Pa (Na.Ka.1844/2024 Sa.Pa) dated 29.11.2024 (received by the petitioner by post on 10.12.2024) under Section 87 of the Tamil Nadu Cooperative Societies Act, 1983, and quash the same in so far as the petitioner is concerned and consequently remand back to the respondent to hold fresh enquiry after giving the opportunity of the petitioner in accordance with law and pass such further orders.

For Petitioner : Mr.K.Rajendran

For Respondent : Mr.S.Arumugam,  
Government Advocate



W.P.No.1744 of 2025

WEB COPY

## **ORDER**

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the respondent in Tha.Tee.No.06/2024-2025Sa.Pa (Na.Ka.1844/2024 Sa.Pa) dated 29.11.2024 (received by the petitioner by post on 10.12.2024) under Section 87 of the Tamil Nadu Cooperative Societies Act, 1983, and quash the same in so far as the petitioner is concerned and consequently remand back to the respondent to hold a fresh enquiry after giving the opportunity of the petitioner in accordance with law.

2. The case of the petitioner is that he was appointed as a clerk in the Pillur Primary Agricultural Society on 18.04.1985 and was promoted as Secretary on 27.04.1991. The post of the Secretary is a common cadre for all Primary Agricultural Societies in Tamil Nadu, as per G.O.(Ms).No.14 dated 12.02.2019. Subsequently, the petitioner was transferred to Kalaspakkam Primary Agricultural Society on 07.11.2022 and later appointed as an additional in-charge Secretary at Melvillvarayanallur Primary Agricultural Society on 30.06.2023. The petitioner claims to have served for 33 years with an unblemished record and has been consistently appreciated by



W.P.No.1744 of 2025

superiors throughout the career. An enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, was initiated regarding overpayment in the savings bank accounts of members of the Melvillvarayanallur Society. Based on the enquiry report dated 01.07.2024, surcharge proceedings were initiated, and a show cause notice under Section 87 of the Act was issued on 02.09.2024 to the petitioner.

3. Learned counsel appearing for the petitioner submits that the enquiry report under Section 81 was not served along with the show-cause notice, despite the notice dated 21.06.2024 stating that the said report was enclosed. The petitioner made written representation on 13.11.2024 and again on 05.12.2024, requesting a copy of the enquiry report; however, no response was received. The show-cause notice was addressed to two individuals, including the petitioner, and pertains to two charges.

4. It is further submitted that it is a well-settled position in law that all relevant documents, including the Section 81 enquiry report, must be furnished to the person concerned in proceedings initiated under Section 87.

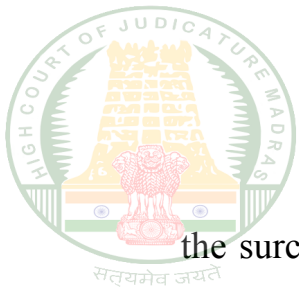


W.P.No.1744 of 2025

**WEB COPY** 5. In support of his contention, the petitioner relies on the decision of this Court in ***W.P.No.2103 of 2018 (K.Madhu vs. Deputy Registrar of Co-operatives & Another)***, dated **12.02.2018**, wherein it was categorically held that failure to furnish the Section 81 enquiry report to the delinquent during a Section 87 enquiry renders the proceedings vitiated and without legal sanctity. This Court reiterated that the competent authority is duty-bound to supply all relevant materials, including the enquiry report, to enable the individual to respond effectively.

6. In the present case, an execution petition has already been initiated pursuant to the impugned surcharge order, thereby causing grave and irreparable prejudice to the petitioner.

7. Learned counsel appearing for the petitioner would then place reliance on the similar order passed by this Court in ***W.P.No.34456 of 2024 (J.Samuvel Vs. The Deputy Registrar of Cooperative Societies, Ranipet Circle, Ranipet and 2 others)*** wherein it was categorically held that failure to furnish the Section 81 enquiry report before proceeding under Section 87 of the Act renders the entire proceedings unsustainable. This Court quashed



W.P.No.1744 of 2025

the surcharge order and directed a fresh enquiry after supplying all relevant documents to the petitioner therein.

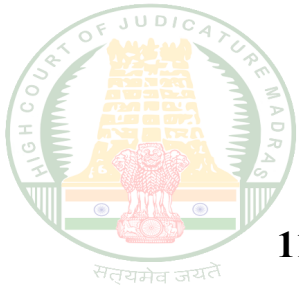
8. A counter affidavit was filed by the respondent dated 05.02.2025.

9. Heard both sides and perused the materials available on record.

10. The ruling relied on by the learned counsel for the petitioner in a similar case of **J.Samuvel Vs. The Deputy Registrar of Cooperative Societies, Ranipet Circle, Ranipet and 2 others** in **W.P.No.34456 of 2024**, wherein this Court held as follows:

*“9.The directions issued were to adhere to the principles of natural justice by furnishing copies of documents and to permit cross-examination of the witnesses. It is contended on behalf of the petitioner that without adhering to such directions, the impugned notice came to be passed under Section 87 of the Act.*

*15.In view of these reasonings, I hold that the petitioner must be granted an opportunity to defend himself and denial of such opportunity had affected his right to be afforded fair opportunity to defend himself. The impugned order is therefore set aside and the matter is remitted back to the 1<sup>st</sup> respondent for fresh consideration. A direction is issued that necessary opportunity to cross-examine the witnesses must be granted to the petitioner herein. The 1<sup>st</sup> respondent may issue notice to the petitioner, get a list of witnesses whom the petitioner proposes to cross-examine and fix a schedule for such cross-examination. The entire proceedings may be completed within a period of four months from the date of receipt of a copy of this order. The petitioner is directed to co-operate with the enquiry.”*



W.P.No.1744 of 2025

**11. In view of the above facts and circumstances of the case and the ratio laid down by this Court in W.P.No.34456 of 2024, the impugned order passed by the respondent in Tha.Tee.No.06/2024-2025Sa.Pa (Na.Ka.1844/2024 Sa.Pa) dated 29.11.2024 (received by the petitioner by post on 10.12.2024) under Section 87 of the Tamil Nadu Cooperative Societies Act, 1983, is liable to be quashed; accordingly the same is quashed, and the matter is remanded back to the respondent to hold a fresh enquiry after giving due notice to the petitioner, furnishing the copy of the enquiry report and affording an opportunity of personal hearing to the petitioner and pass appropriate orders on merits, in accordance with law, within a period of four months from the date of receipt of a copy of this order.**

In the result, the writ petition stands allowed with the above observations and direction. No costs. Consequently, connected miscellaneous petition is closed.

**09.04.2025**

cda

Index : Yes

Speaking Order : Yes

Neutral Citation : Yes



WEB COPY



W.P.No.1744 of 2025

To

The Deputy Registrar of Cooperative Societies/  
Surcharge Officer,  
Tiruvannamalai.



WEB COPY



W.P.No.1744 of 2025

**J.SATHYA NARAYANA PRASAD, J.**

cda

**W.P.No.1744 of 2025**

**09.04.2025**