



W.P.(MD)No.6250 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.11.2025

CORAM

THE HON'BLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.6250 of 2021

and

W.M.P.(MD)No.4871 of 2021

N.Nallaraj

: Petitioner

Vs.

1.The Joint Registrar of Co-operative Societies /
Revisional Authority,
Virudhunagar Region,
Virudhunagar.

2.The Sub-Registrar of Co-operative Societies /
Special Officer,
Q.108, Aamathur Primary Co-operative Agriculture Credit Society,
Amathur,
Virudhunagar District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order passed by the first respondent in Revision



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Petition No.1 of 2018 Na.Ka.No.1139/18 Sa Pa, dated 09.03.2020 confirming the impugned order of removal from service passed by the second respondent vide his proceedings dated 22.12.2017 and quash the same as illegal.

For Petitioner : Mr.J.Lawrance

For Respondents : Mr.A.Baskaran,

Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the impugned orders dated 22.12.2017 and 09.03.2020 passed by the respective respondents removing the petitioner from service.

2.The petitioner was working as a Secretary in the second respondent society. Disciplinary proceedings were initiated against him on account of misappropriation of funds of the second respondent society when the petitioner was a Secretary. Charges were framed against him in the disciplinary proceedings and an enquiry officer was appointed by the second respondent society. The petitioner participated in the enquiry proceedings. The petitioner has let in oral evidence before the enquiry officer and the second



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respondent society has let in both oral and documentary evidence.

The enquiry officer submitted his report and as per the said report, the petitioner was found guilty of the charges framed against him. Based on the enquiry report, the second respondent represented by its Special Officer, [disciplinary authority] by its order dated 22.12.2017, imposed the punishment of removing the petitioner from service. Aggrieved by the same, the petitioner preferred a revision as per the provisions of "the Tamil Nadu Cooperative Societies Act, 1983", [hereinafter referred to as "the Act"] before the first respondent in Revision Petition No.1/2018. The first respondent [disciplinary authority] confirmed the order of the second respondent dated 22.12.2017, by its order dated 09.03.2020. Aggrieved by the impugned orders, the petitioner has filed this Writ Petition.

3.The petitioner contends that the special officer is not the competent authority to pass the impugned punishment order removing the petitioner from service. The petitioner also contends that he has been singled out by the second respondent society for the alleged misappropriation of funds. He has stated that the special officer as well as others were also involved in the handling of the funds of the society but despite the same, the petitioner alone has been targeted.



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4.Learned Counsel for the petitioner relies upon Section 75(3) of the Act and would submit that as per the said provision, special officer is not the competent authority to initiate disciplinary proceedings against the petitioner. He would submit that only a committee constituted as per the said provision alone is entitled to initiate disciplinary proceedings against the delinquent. He would also submit that since the Special Officer even as per the counter filed by the respondents before this Court is also a co-delinquent, he cannot initiate disciplinary proceedings against the petitioner.

5.A counter affidavit has been filed by the respondents before this Court. They would reiterate that only in accordance with law by following the due procedure established under law, the impugned punishment orders have been passed and the punishment of removing the petitioner from service has been imposed. Only on account of misappropriation of funds by the petitioner who had granted 7 bogus jewel loans, the petitioner has been removed from service through the impugned orders. They have also stated that surcharge proceedings were initiated against the petitioner and a surcharge order has been passed against the petitioner as well as



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against two other delinquents, determining the amount misappropriated by the petitioner from the third respondent society. They would also submit that only in accordance with law, the impugned orders have been passed.

6.The following are the undisputed facts:

a) surcharge order has already been passed against the petitioner as per the provisions of the Act, determining the amount due and payable by the petitioner on account of the misappropriation of funds belonging to the third respondent society. Eventhough an appeal has been preferred by the petitioner as against such surcharge order, when the amount has already been determined that is due and payable by the petitioner by the competent authority under the Act, the question of re-agitating the issue through this Writ Petition by the petitioner does not arise.

b) the very same defence namely the competency of the special officer to initiate disciplinary proceedings against the petitioner may have been raised by the petitioner in the surcharge proceedings as well. The said surcharge order has also not been placed on record by the petitioner before this Court.

c) before the enquiry proceedings, as seen from the records / enquiry report placed on record before this Court, the petitioner



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neither in his explanation to the charge memo issued by the respondents in the enquiry proceedings nor during the course of the enquiry has raised any objection that the special officer is not the competent authority to initiate disciplinary proceedings against the petitioner.

d) only in the revision petition filed by the petitioner before the first respondent, a ground has been raised by the petitioner that special officer is not the competent authority to initiate disciplinary proceedings against the petitioner. If the said objection has to be considered by this Court, the petitioner ought to have raised the same at the first instance. The petitioner voluntarily participated in the enquiry proceedings. The petitioner has also not let in any documentary evidence before the enquiry officer in support of his contention that there are others also who were actively involved in handling of the funds belonging to the second respondent society. Only oral evidence was let in by the petitioner in the enquiry proceedings. It was only the second respondent society who had let in both oral and documentary evidence in the enquiry proceedings.

e) only based on preponderance of probability and only based on the findings rendered by the enquiry officer holding that the petitioner is guilty of the charges framed against him in the disciplinary proceedings, the second respondent [special officer]



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[disciplinary authority] has passed the impugned order dated 22.12.2017, removing the petitioner from service. Only for the first time before the revisional authority as stated supra, the petitioner has raised a ground that the special officer is not the competent authority to initiate disciplinary proceedings against the petitioner. The first respondent has also upheld the order of the disciplinary authority by passing the impugned order dated 09.03.2020 confirming the order of the second respondent dated 22.12.2017.

7. In the surcharge proceedings as well, even though a defence was raised by the petitioner, the said defences were rejected and a surcharge order came to be passed under Section 87 of the Act, determining that the petitioner has misappropriated the funds of the second respondent society and also determining the amount due and payable by the petitioner to the second respondent society on account of the said misappropriation. As on date, no stay has also been granted by the appellate authority under the provisions of the Act as against the surcharge order, even though the petitioner has preferred an appeal. When the amount has already been determined by the competent authority under Section 87 of the Act, that is due and payable by the petitioner to the second respondent society on account of his misappropriation, the question of entertaining the



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grounds raised by the petitioner through this Writ Petition, that too when the respective authorities [respondents] have already rejected the petitioner's contention does not arise.

8.This Court cannot re-appreciate the evidence in a petition filed under Article 226 of the Constitution of India, when this Court does not find any error on the part of the respective respondents to come to the conclusion that the petitioner is guilty of the charges framed against him, since the charges framed against the petitioner which have been proved are serious in nature namely misappropriation of funds of the second respondent society running to Rs.66 Lakhs, when the petitioner was working as a Secretary in the second respondent society. Only based on preponderance of probability, findings are rendered in disciplinary proceedings, since only based on evidence placed on record, the respective authorities have come to the conclusion that the petitioner is guilty of the charges framed against him in the disciplinary proceedings and punishment of removal from service has been passed. Accordingly, this Court is not inclined to interfere with the impugned orders.

9.For the foregoing reasons, this Court does not find any merit in this Writ Petition. Accordingly, this Writ Petition stands dismissed.



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There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index :Yes / No
Internet : Yes / No
NCC : Yes/No
MR



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ABDUL QUDDHOSE., J.

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