



W.P.(MD) No.13176 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.13176 of 2018

and

W.M.P(MD)No.12026 of 2018

Thambi Ka.Devarethinam

.. Petitioner

Vs.

1.The Registrar of Co-Operative Societies (Housing),
Tamil Nadu Housing Board Complex,
NO.48, Retherton Road, Vepperi,
Chennai – 600 007.

2.The Regional Deputy Registrar (Housing),
13/107, Ramalinga Adigalar Trust Building,
Daniel Thomas Nagar,
Thanjavur – 7.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the Surcharge Order as made under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983, vide Proceedings in Na.Ka. 688/2017/Sa.Pa. dated 26.02.2018 on the file of the 2nd respondent herein and quash the same as it is illegal and arbitrary and consequently direct



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the 2nd respondent to drop all the proceedings against this petitioner also as per the order of the 1st respondent vide Na.Ka.No.2427/2016/Sa.Pa.5 dated 23.05.2018.

For Petitioner : Mr.M.Aravind Subramaniam

For Respondents : Mr.D.Sasikumar
Additional Government Pleader

ORDER

The above writ petition is filed for a certiorarified mandamus calling for the records made in the surcharge order under Section 87 of the Tamil Nadu Cooperative Societies Act and direct the 2nd respondent to drop all the proceedings against the petitioner.

2. The case of the petitioner is that he had held the post of President in the Kumbakonam Town Co-operative House Building Society Ltd., for the period 05.08.2013 to 02.09.2014. A show cause notice dated 13.07.2017 was issued under Section 36(1) of the Tamil Nadu Co-operative Societies Act (hereinafter referred to as the Act). This notice had been issued on account of the petitioner signing the promotion



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file of one Purusothaman who is Secretary of the Society for a very long time. The petitioner was informed by the said Secretary that he has been holding the post of Manager for a long time and that he was due for promotion as Secretary, more particularly when he has been all along discharging the duties akin to that of the Secretary of the Society. Trusting his words, the petitioner would submit that he had signed the promotion file. After receipt of the show cause notice, the petitioner came to understand that the said Purusothaman was not eligible for promotion without the previous sanction of the 1st respondent and that apart, he had obtained his doctorate degree not as per the regulation of the Society.

3. The said Purusothaman was later suspended from service by order dated 26.04.2016 as he had committed grave acts of misconduct and by reason of which, charges were framed against him. He had not appeared for the domestic enquiry and allowed the same to proceed *ex parte* against him. It also came to the light that the said Purusothaman had been manipulating the minutes of the Board meeting and has also



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been siphoning of money. It is in these circumstances that the show cause notice had been issued to the petitioner on 13.07.2017 asking him to show cause as to why he should not be disqualified under Section 36(1) of the Act. The charges also included the sale of plots at prices lower than the prevailing market value and that too to the members who had not completed 5 years of membership. Thereafter, the petitioner had been issued with the impugned order dated 19.09.2017 removing him from membership of the above referred Society and disqualifying him permanently from holding office of any registered Society in future on the ground that the petitioner and nine others had acted against the interest of the Society and contrary to the rules and regulations of the Act. The petitioner came to learn that an enquiry under Section 81 of the Act had been initiated. The petitioner would submit that to the best of his knowledge, no enquiry was conducted and neither was the enquiry report served on him. Without service of the enquiry report, the petitioner has been served with the Section 87 surcharge notice and therefore, aggrieved by the same, the petitioner is before this Court.



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4. Heard the learned counsels on either side.

5. It appears that earlier one Anbalagan and eight others had filed W.P.(MD)No.6830 of 2018 challenging the order impugned in this writ petition. One of the grievances therein was that they had not been served with the enquiry report. While dismissing the writ petition, the Court had passed the following directions to the 2nd respondent, namely The Regional Deputy Registrar of Co-operative Societies (Housing), who is also the 2nd respondent herein.

“3. However, the second respondent is directed to furnish a copy of the enquiry report submitted under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, to the petitioners, within a period of four weeks from the date of receipt of a copy of this order, and the petitioners are permitted to submit their objections, within a period of four weeks thereafter. Till the petitioners submit their objections, the second respondent is directed not to pass any final order.”



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6. Despite the above directions, the enquiry report has not been made available to the petitioner. Without knowing the contents of the enquiry report, the petitioner will not be in a position to effectively defend himself in Section 87 proceedings. After the order, it also appears that the petitioner herein had addressed a detailed communication to the respondents informing them that the enquiry report had not been obtained and therefore calling upon the respondents to drop the surcharge proceedings. As rightly pointed out by the learned Additional Government Pleader, the challenge is only to a surcharge notice. It is well open to the petitioner to submit his explanation and thereafter, the respondents can proceed to hear the petitioner and pass orders. However, in order to defend the Section 87 surcharge proceedings, the enquiry report has to necessarily be made available to the petitioner. Hence, the enquiry report shall be furnished to the petitioner within a period of two (2) weeks from the date of receipt of copy of this order. On receipt of the same, Section 87 proceedings shall be proceeded with, after giving an opportunity of personal hearing to the petitioner.



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7. With the above directions, this Writ petition stands disposed of.

No costs. Consequently, connected Miscellaneous Petition is closed.

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NCC : Yes/No

Index : Yes/No

Internet : Yes

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To

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