



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE **K.KUMARESH BABU**

W.P.(MD) No.21349 of 2018
and
W.M.P.(MD) Nos.19226 and 21738 of 2018

R.Rajasekaran

... Petitioner

/vs./

The Assistant Director,
Handloom and Textiles Department,
Madurai.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for records relating to the impugned notice issued by the Respondent in his proceedings Na.Ka.No.3260/2018/G dated 07.06.2017 and quash the same in the light of the order dated 06.06.2018 passed by the respondent.

For Petitioner : Mr.B.Prahalad Ravi

For Respondent : Mr.R.Suresh Kumar
Additional Government Pleader



WEB COPY

ORDER

Heard Mr.B.Prahalad Ravi, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Additional Government Pleader for the respondent.

2. The writ petition has been filed challenging the notice issued by the respondent in Na.Ka.No.3260/2018/G dated 07.06.2017.

3. The learned counsel for the petitioner would submit that the petitioner was appointed as Handloom Inspector in the year 1988, thereafter was promoted as Handloom Officer in the year 1992, promoted to the post of Textile Control Officer in the year 1998 and attained superannuation on 31.12.2012. The petitioner was allowed to retire by the Department considering his unblemished service. When that be so, a show cause notice was issued on 07.06.2017 calling upon the petitioner stating that as to why surcharge proceedings should not be initiated against him under Section 87 of the Tamil Nadu Cooperative Societies Act (*herein after referred to as Act*) for the financial loss incurred to Sri Inbha Vinayagar Handloom Weavers Cooperative Society from 01.04.2010 to 02.03.2016.



WEB COPY

4. The petitioner challenging the said surcharge proceedings had filed a writ petition in W.P.(MD) No.20064 of 2017, in which interim orders have been granted. However, the respondents had proceeded with the surcharge proceedings against the other persons and concluded the same. After the conclusion of the said surcharge proceedings against other persons, the petitioner had been served with the impugned show cause notice dated 30.08.2018 calling upon him as to why criminal action should not be initiated against him.

5. He would further submit that when the surcharge proceedings were not proceeded against the petitioner and kept in abeyance in view of the interim orders granted by this Court on the findings based upon the surcharge proceedings proceeded against other individuals, such show cause notice ought not to have been issued against the petitioner. Therefore, he would submit that there is no material on record to proceed against the petitioner for criminal action. Hence, he would seek interference of this Court with the show cause notice impugned in this writ petition.



WEB COPY

6. Countering his arguments, Mr.R.Suresh Kumar, learned Additional Government Pleader appearing for the respondent would submit that for the loss that had been caused to the society, the petitioner is liable to be proceeded with under Section 87 of the Act and the said Act also permits that such delinquent could be criminally prosecuted. Hence, he would submit that the notice had been sent only to the petitioner and if the petitioner responds to the said notice, further proceedings would be initiated. Hence, he would submit that there is no necessity to quash the impugned notice, which is in the nature of show cause. Therefore, he seeks dismissal of this writ petition.

7. I have considered the rival submissions made by the learned counsel on either side.

8. Under the impugned notice, the petitioner was sought to be proceeded with criminally on the basis of an enquiry that has been conducted under Section 81 of the Act. It is to be noted that based upon the very same enquiry conducted under Section 81 of the Act, surcharge proceedings under Section 87 of the Act was also sought to be initiated against the petitioner, which had been challenged



WEB COPY

by him in W.P.(MD) No.20064 of 2017 and an interim stay of further proceedings was granted by this Court in its order dated 01.11.2017. Thereafter, the surcharge proceedings against the persons other than the petitioner seems to have been concluded and those persons have been held to be liable for the loss to the Society. Only thereafter, the present impugned notice seems to have been issued to the petitioner. Hence, this Court is of the view that the present impugned notice had been made after the findings given in the surcharge proceedings that were proceeded against the other individuals.

9. In such view of the matter, the impugned notice dated 30.08.2018 had been made even before the disposal of the surcharge proceedings against the petitioner and therefore, the same is liable to be set aside and is accordingly set aside. In fine, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet : Yes / No
mm

09.01.2025



WEB COPY

To

The Assistant Director,
Handloom and Textiles Department,
Madurai.



WEB COPY



K.KUMARESH BABU, J.

mm

W.P.(MD) No.21349 of 2018

09.01.2025