



W.P.(MD).No.21763 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 22.01.2025

DELIVERED ON: 31.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD).No.21763 of 2017

and

W.M.P.(MD)No.18051 of 2017

A.Irudhayaraj

...Petitioner

Vs

1.The Joint Registrar of Cooperative Societies,
O/o. The Joint Registrar of Cooperative Societies,
Trichy Region, Multistoried Building,
Kajamalai Nagar, Trichy.

2.The Deputy Registrar of Cooperative Societies,
O/o. The Deputy Registrar of Cooperative Societies,
Tiruchirappalli Circle,
Tiruchirappalli District.

... Respondents

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 pertaining to the impugned order issued by the first respondent vide ஐ.க.4 505 / 2016 / ஈ.பு நாள் : 20.04.2017 and quash the same and consequently forbearing the respondents from any way interfering with the function of the petitioner as President of N.Kavandampatti Primary Agricultural Cooperative Credit Society.



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For Petitioner : Mr.D.Shanmugaraja Sethupathi

For Respondents : Mr.J.K.Jeyaseelan
Government Advocate

ORDER

Heard Mr.D.Shanmugaraja Sethupathi, learned counsel for the petitioner and Mr.J.K.Jeyaseelan, learned Government Advocate for the respondents.

2. This Writ Petition has been filed challenging the order issued by the first respondent dated 20.04.2017 and to consequently forbearing the respondents from any way interfering with the function of the petitioner as President of N.Kavandampatti Primary Agricultural Cooperative Credit Society.

3. The learned counsel for the petitioner would submit that the petitioner was elected as President of N.Kavandampatti Primary Agricultural Cooperative Credit Society from among the Board of Directors in the year 2013. He would submit that an enquiry was



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initiated under Section 81 of the Tamil Nadu Cooperative Societies Act, and based on the enquiry report dated 30.12.2015, the first respondent issued a show-cause notice invoking powers under Section 36 of the Tamil Nadu Cooperative Societies Act, requiring the petitioner to explain why he should not be disqualified. He would submit that in his explanation dated 10.05.2017, he had stated that the petitioner had not committed any default as alleged in the notice and had not violated any provisions of the Tamil Nadu Cooperative Societies Act. He would further submit that the report under Section 81 of the Act was not served on the petitioner, and therefore, the first respondent ought not to have proceeded with passing an order under Section 36 of the Act. He also relied on the judgment of this Court in W.P.(MD)No.25054 of 2016, dated 15.11.2016, and contended that for a single isolated incident, the petitioner should not have been proceeded against under Section 36 of the Act.

4. On the contrary, the learned Government Advocate appearing on behalf of the respondents submitted that the enquiry conducted under Section 81 of the Tamil Nadu Cooperative Societies Act revealed that the



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petitioner was involved in misappropriation of the society's funds and demonstrated gross and persistent negligence in the conduct and management of the society. Hence, a show-cause notice was issued to the petitioner, requiring him to submit his explanation. He would submit that the petitioner's claim was that the amount found to be misappropriated had been misused by the Secretary of the Society, and therefore, the petitioner ought not to be held responsible for it. However, relying on the communication issued by the petitioner to the second respondent, he would contend that the petitioner himself admitted that the payments in question, allegedly made by the Secretary and another, were in fact made on his behalf and that the petitioner also undertook to settle the balance of loss that was disclosed in Section 81 enquiry. Therefore, he would submit that the gross misappropriation, as admitted by the petitioner himself, stands proven. Furthermore, the allegation of persistent negligence against the petitioner in the conduct of the affairs of the society has also been established, as evident from the impugned order. He would further submit that the judgment relied upon by the learned counsel for the petitioner is inapplicable to the present case. This is because the said case involved only an allegation of gross negligence,



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which this Court found to be non-persistent and an isolated incident.

The present case involves proven charges of gross misappropriation and persistent negligence. Therefore, he prays for dismissal of the writ petition.

5. I have considered the submissions made on either side and perused the materials available on record.

6. The petitioner had been issued with a show cause notice under Section 36 of the Tamil Nadu Cooperative Societies Act (hereinafter referred to Act) based on two allegations viz., a) misappropriation of the funds of the society b) persistent negligence in connection with the conduct and affairs of the society and gross mismanagement of the affairs of the society. Even though the petitioner had attempted to rely upon the receipts of payments made by other persons for the misappropriation that had been noted in the enquiry report under Section 81 of the Act, the letters issued by such third parties who had deposited the said amount placed on record before this Court would indicate that the said persons had made payment on behalf of the petitioner, from the



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amounts that had been given to them by the petitioner. The petitioner has also addressed a letter to the second respondent admitting that the said payments made by the individuals has been made on his behalf and he would make good the balance payment on or before 20.11.2021. In view of the said admitted statement made by the petitioner, it is clear that the petitioner had involved himself in misappropriation of funds as alleged in the notice issued under Section 36 of the Act and therefore the findings that had been arrived at by the first respondent to hold that the petitioner was guilty of breach of trust in relation to the society stands proved. Similarly, the allegation of persistent negligence and gross mismanagement of the society's affairs has also been substantiated. The first respondent found this allegation to be true. The petitioner's conduct, particularly the misappropriation of society funds, as evident from his communication to the second respondent, unequivocally demonstrates gross mismanagement of the society's affairs.

7. As rightly pointed out by the learned Government Advocate, the judgment relied upon by the petitioner made in W.P.(MD)No.25054 of 2016 dated 15.11.2024 cannot be made applicable to the case of the



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petitioner. The facts in the cited case reveal that the petitioner was involved in a single incident of negligence, wherein he failed to take action against an employee alleged to have misappropriated society funds. In the said case, the Court had held that there has been no persistent negligence and it was only an isolated incident and therefore, did not warrant proceedings under Section 36 of the Act. However, in the present case, the petitioner found to have been misappropriated the funds of the society which also stands proved. Therefore, I do not find any merits in the Writ Petition.

8. Accordingly, the Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

31.01.2025

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:
WEB COPY

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K.KUMARESH BABU, J.

Nsr

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