



WEB COPY

WP No. 39831 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2026

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THE HON'BLE MR JUSTICE M.DHANDAPANI

WP No. 39831 of 2024 and

WMP.Nos.43166, 43167 of 2024 and 333 of 2026

K.Kathirvel

S/o. Kulanthaivel, Chadrapuram, Selampalayam

Post, Dharapuram Taluk, Tiruppur District.

..Petitioner(s)

Vs

1. The Registrar Of Co-operative Societies,
Ezhilagam, Chepauk, Chennai.
2. The Deputy Registrar Of Cooperative Societies,
Dharapuram Circle, Dharapuram.
3. The Sub Registrar/inquiry Officer,
Aa.314, Selampalayam Co-operative Credit
Society, Selampalayam, Dharapuram,
Tiruppur District.
4. The Administrator,
Aa.314, Selampalayam Co-operative Credit
Society, Selampalayam, Dharapuram,
Tiruppur District.

..Respondent(s)

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of writ of Certiorarified Mandamus to call for the records relates to the impugned surcharge proceedings passed under section 82 of co-operative societies Act passed by the 3rd Respondent on 01.03.2024 and quash the same as illegal,un authority of law and consequently direct the respondents to reinstate the Petitioner in to service with all benefits



For Petitioner(s):

M/s.G.Senthil Kumar

For Respondent(s):

Mr.M.Muthusamy, Government Advocate for R1 to R3

Mr.M.S.Palanisamy for R4

Order

This Writ Petition is filed against the impugned Surcharge Proceedings passed under Section 82 of Co-operative Societies Act, by the 3rd respondents on 01.03.2024.

2. Case of the petitioner is that the petitioner was working as a Clerk and in charge Secretary in the office of the 4th respondent Society. During the year 2021, he was issued with charge memo alleging that excess loan disbursement and Section 82 inquiry was initiated on 17.06.2021 and inquiry officer submitted his report stating that there is no mal practice in the loan disbursement and however he pointed out that a sum of Rs.1,17,296/- as financial loss to the Society and the same was paid by the petitioner. When the matter stood thus, after a lapse of three years, the 2nd respondent passed an order indicating that the earlier inquiry report was set aside and directed the authorities to conduct re-inquiry and thereby the 3rd respondent had initiated impugned surcharge proceedings under Section 82 of Cooperative Societies Act. Against which, the petitioner is before this Court.



3. Learned counsel for the petitioner submitted that after a lapse of 3 years, the 2nd respondent appointed inquiry officer to investigate and conduct inquiry for the alleged period 01.02.2021 to 31.03.2021, wherein already a report was submitted by the earlier inquiry officer and hence the second inquiry under Section 82 cannot be permissible under law. Further no opportunity was given to the petitioner under Section 81 inquiry and Section 82 inspection and thus, the impugned proceedings is vitiated as no opportunity being given and the principles of natural justice were violated.

4. Learned Government Advocate appearing for the respondents 1 to 3 submitted that if the inquiry report is perfunctory or incomplete, the Registrar may order for a fresh inquiry, which is contemplated under law. Therefore, the entire proceedings have been carried out in accordance with law. It is also urged by the learned counsel for the respondents that the enquiry under Section 81 and 82 nowhere contemplates of giving of an opportunity and is only a process of collecting information in order to form a prima facie opinion for taking action under Section 87 of the Act. Therefore, the contention of the petitioner that he has not given opportunity while Section 82 enquiry is not sustainable and prays for dismissal of this petition.



5. Heard both sides and also perused the materials available on record.

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6. Considering the facts and circumstances of the case, this Court is of the view that the proceedings under Section 81 and 82 are preliminary in nature, being a fact finding enquiry, to ascertain whether it was worth proceeding to initiate a surcharge process in terms of Section 87 or not, or to take any further action. Further the petitioner would be given a show cause notice in the proceedings under Section 87 where he will be given full opportunity to defend himself and the same will be considered by the surcharge officer. Thereafter also, if the petitioner is aggrieved by any such findings recorded on the merits of the matter, the same can be subjected to an appeal under Section 152 of the Act. Therefore the argument that no opportunity was given at the stage of Section 82 proceedings, is bereft of any legal backing and the same has to be rejected. The facts can be collected from any source and a mere collection of facts under Section 81 and 82 does not in *per se* prejudice a person unless the same is utilized against a person, who is subsequently put to notice in surcharge proceedings, where he has full opportunity to explain himself.

7. For the reasons aforesaid, this Court does not find any reason to interfere in the impugned order and therefore, this Writ Petition is dismissed. No costs. However, liberty is granted to the petitioner that he can approach the competent Court, if he is not given an opportunity in the surcharge proceedings.



Consequently connected miscellaneous petitions are closed.

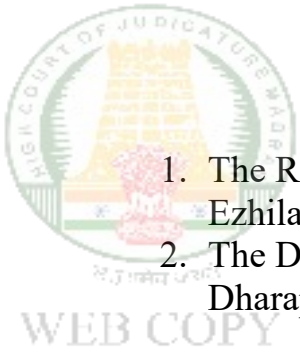
17-04-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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M.DHANDAPANI J.

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