

(2008) 05 KAR CK 0018
In the Karnataka High Court
Case No : Writ Petition No. 7190 of 2008

V. Eshwaran Achari

APPELLANT

Vs

Karnataka Rajya Kaigarika Sahakara Bank Niyamitha

RESPONDENT

Date of Decision : 22-05-2008

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2008) ILR (Kar) 4623 : (2008) 6 KarLJ 696 : (2008) 3 KCCR 220 SN

Hon'ble Judges : B.V. Nagarathan, J

Bench : Single Bench

Advocate : V.P. Kulkarni, for the Appellant;

Final Decision : Dismissed

Judgement

B.V. Nagarathan, J.—The petitioner in this writ petition has challenged order dt.29.2.2008 passed by the Karnataka Appellate Tribunal (for short "Tribunal") in Revision Petition No. 51/2007 (Annexure-T) reversing the order of the Joint Registrar of Co-operative Societies dated 13.2.2007 (Annexure-S) and Enquiry Report dated 12.5.2006 submitted by the Enquiry Officer as per Annexure-L.

2. The petitioner is an employee of respondent -bank which is a registered co-operative bank under Karnataka Co-operative Societies Act, and was appointed as Second Division clerk on 4.5.1970 and promoted as First Division Clerk on 22.5.1976.

3. According to petitioner, while he was working as In-Charge Superintendent of Accounts and Finance Section at Head Office, a show cause notice dated 16.4.2005 was issued to him and the Manager, Accountant and Clerk of the Mangalore Branch as per Annexure-F, which was replied by the petitioner vide Annexure-G. Thereafter, respondent bank had issued charge sheet against the petitioner by keeping him under suspension for a period of three months and then reinstated him subject to the result of the enquiry. The petitioner has also replied to the chargesheet as per Annexure-J. Subsequently, the respondent

appointed one Sri. C.S. Bhadrinath, Retired Additional Registrar of Co-operative Societies as Enquiry Officer to conduct a domestic enquiry against the petitioner as per Annexure-K, who then held an enquiry against the petitioner and submitted his Enquiry Report as per Annexure-L. On receipt of the second show-cause notice by the petitioner from the respondent bank, after receipt of the Enquiry Report, the petitioner replied to the same vide Annexure-M and N.

4. When things stood thus, the petitioner raised a dispute before the Joint Registrar of Co-operative Societies, Bangalore in Dispute No. 2085/2006-07 and sought for stay of further proceedings and by an interim order produced as Annexure-S, further proceedings in

the enquiry was stayed pending disposal of the dispute. Aggrieved by the said interim order, the petitioner preferred Revision Petition No. 51/2007 before the Tribunal which, by order dated 29.2.2008 (Annexure-T), set aside the interim order dated 13.2.2007 and directed the respondent bank to take necessary action in the matter. Being aggrieved by the order of the Tribunal, the petitioner has filed this writ petition while at the same time, challenging the enquiry report also.

5. I have heard the learned Counsel for the petitioner. It is his submission that the Tribunal was not right in setting aside the interim order passed by the Joint Registrar of Co-operative Societies staying the operation of the enquiry report. According to him, the enquiry initiated against the petitioner is void ab initio as the Deputy General Manager, Accounts Section who is equally responsible for the delinquent act ought to have been proceeded against also and therefore, on the facts and circumstances of the case, a joint enquiry ought to have been conducted by the respondent bank and hence, the entire proceeding initiated against the petitioner alone is- not in accordance with law and therefore, the enquiry report ought to be quashed.

6. From the facts narrated above, it is seen that the respondent bank initiated an enquiry against the petitioner on the basis of certain acts, omissions and commissions attributable to him by the Bank and the Enquiry Officer has submitted Enquiry Report as per Annexure-L to the bank for taking further action in the matter. At that stage, the petitioner raised a dispute u/s 70 of the Karnataka Co-operative Societies Act, 1959 on the ground that the entire enquiry was bad in law and in the said proceeding, sought stay of further action on the Enquiry Report even before the respondent bank could take any decision on the same. The Joint Registrar of Co-operative Societies, in my opinion, was not right in staying the Enquiry Report and all further proceedings pursuant thereto pending disposal of the dispute raised before him. In fact, the said dispute itself was not maintainable as it was filed by the petitioner only to delay the respondent bank from taking a decision in the matter and therefore, the challenge to the Enquiry Report was premature and the Joint Registrar ought not to have interfered at the final stage of the enquiry. Being aggrieved by the interim order of stay of further proceedings in the Enquiry Report, the bank filed

the Revision Petition before the Tribunal which has rightly been allowed and the order of interim stay of further proceedings in the enquiry granted by the Joint Registrar has been set aside reserving liberty to the bank to take an appropriate decision on the Enquiry Report and the explanation offered by the petitioner.

7. It is a settled position in law that Courts ought not to interfere with domestic enquiries at an intermediate stage unless it is satisfied that the illegality goes to the root of the matter. Even when punishment orders after a domestic enquiry are challenged, it is only when the court is convinced that at a particular stage of the enquiry proceeding, there has been an illegality or violation of law, the proceeding from that stage onwards would be quashed or set aside and a direction would be issued to re-do the enquiry from the stage at which the illegality or violation is held to be bad in law by the Court. This is because authorities empowered to investigate into matters in the presence of parties must find out the true facts and their powers cannot be denuded or interfered with by Courts or Tribunals at intermediate stages or otherwise, it would adversely affect the conclusion of the investigation or enquiry. In fact, the Hon"ble Supreme Court in a large number of cases has deprecated the practice of High Courts and Tribunals entertaining writ petitions questioning the legality of a show cause Notice issued at the commencement of an enquiry proceeding or challenge made to a charge sheet.

8. Infact even after the conclusion of an enquiry and a punishment being imposed, the power of the High Court to interfere would be exercised where the authorities have held the proceedings against the delinquent in a manner inconsistent with the rules prescribing the mode of enquiry or when the authorities have disabled themselves from reaching a fair decision by some considerations extraneous to the evidence and the merits of the case or by irrelevant considerations or where the conclusion on the very face of it is so wholly arbitrary and capricious that no reasonable person could have arrived at that conclusion on similar grounds.

9. Apart from this, if the enquiry is otherwise properly held, the departmental authorities are the judges of facts, and if there be some legal evidence on which their findings are based the adequacy or reliability of that evidence is not a matter which can be permitted to be canvassed before a High Court in a proceeding under Article 226 of constitution, much less at an intermediate stage, prior to the consideration of the enquiry report by the authorities concerned.

10. It is pertinent to note that in the instant case, the petitioner has replied to the show cause notice and the charge sheet issued to him and has participated in the enquiry proceeding and has also given his reply to the Enquiry Report and second show cause notice. It is only with a view to stay the enquiry proceedings from being concluded by the respondent-Bank that the petitioner raised a dispute before the Joint Registrar. The Joint Registrar was therefore not right in going into the merits of the enquiry as well as the enquiry report and the tribunal was right in setting aside the interim order of the Joint Registrar.

11. For the aforesaid reasons, the writ petition is devoid of merits and is dismissed at the stage of preliminary hearing leaving open all other contentions available to the parties.