

* HON'BLE SRI JUSTICE R.KANTHA RAO

+ Writ Petition No.6492 of 2015

% 24-3-2015

M.Jaipal Reddy

... Petitioner

Vs.

\$ The State of Telangana,

Rep. by its Prl. Secretary, Cooperative Dept.,

Secretariat, Hyderabad; and 15 others

... Respondents

! Counsel for the Petitioner: Sri B.Chandrasen Reddy

Counsel for Respondents 1 & 2: Government Pleader
for Cooperation

Counsel for Respondent No.7: Sri P.Giri Krishna

Counsel for Respondents 3 to 6 & 8 to 16: None appeared

< Gist:

> Head Note:

? Cases referred:

Nil.

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.6492 of 2015

Date: 24-3-2015

Between

M.Jaipal Reddy

... Petitioner

and

The State of Telangana,
Rep. by its Prl. Secretary,
Cooperative Dept.,
Secretariat, Hyderabad;
and 15 others

... Respondents

HON'BLE SRI JUSTICE R.KANTHA RAO

Writ Petition No.6492 of 2015

Order:

Heard Sri B.Chandrasen Reddy, learned counsel appearing for the petitioner, learned Government Pleader for Cooperation appearing for the respondents 1 and 2, and
Sri P.Giri Krishna, learned counsel appearing for the
7th respondent.

2. This writ petition is filed for a *mandamus* seeking direction to declare the notice dated 04-3-2015 issued by the 2nd respondent under Section 34(A)(3) of the Andhra Pradesh Cooperative Societies Act, 1964 (the APCS Act, for short) enabling the members of the District Cooperative Central Bank Limited (DCCB), Medak at Sangareddy in respect of moving Motion of no-confidence dated 26-

3-2015 at 11.00 a.m. against the petitioner as illegal, arbitrary and against the principles of natural justice and to set aside the same.

3. The brief facts necessary for considering the present writ petition may be stated as follows:

(a) The petitioner is the President of the DCCB Ltd., Medak at Sangareddy. He was elected as the President of DCCB in August, 2009 and has been discharging functions as such till date. It is submitted by the petitioner that the 2nd respondent addressed a letter dated 25-02-2015 to him seeking information about the defaulting members of the Primary Agricultural Cooperative Societies (PACs) and DCCB. In response to the letter, the petitioner submitted a statement showing the loan over dues as on 28-02-2015 vide his letter dated 04-3-2015. According to the petitioner, during the period between 25-02-2015 and 04-3-2015, the unofficial respondents who are the defaulters were pressurising him not to give the details of loan over dues but the petitioner was insisting upon them to clear the outstanding loan amounts to the DCCB and also informed them that in the event of failure, he would initiate proceedings under the APSC Act for disqualification of the defaulting members.

(b) Under the above circumstances, it is the version of the petitioner that 9 Directors out of 13, who colluded with the 3rd respondent, got issued the impugned notice by the 2nd respondent whereupon the 2nd respondent issued the impugned notice calling for Motion of no-confidence on 26-3-2015 against the petitioner.

(c) It is further submitted that respondent No.15, who joined as a Director of DCCB, purporting to be the member of Sheep Breeding Cooperative Society (SBCS), Pullur, whose term expired prior to the elections of DCCB but somehow he managed by misrepresenting the fact that he is the President of SBCS, Pullur and accordingly got inducted as a Director in collusion with the officials. The petitioner brought it to the notice of the 2nd respondent orally on

number of occasions and the issue relating to the 5th respondent also is one of the reasons for issuing the impugned notice.

(d) It is further submitted that the impugned notice issued by the 2nd respondent is politically motivated and was issued at the instance of the defaulters, who are arrayed as respondents 3 and 5 to 11. The unofficial respondents who are defaulters are not entitled to move any Motion of no-confidence against the petitioner as they are not eligible to participate and vote at the proposed meeting of Motion of no-confidence. The version of the petitioner is that the impugned notice of meeting of Motion of

no-confidence is a counter-blast to the action proposed by him for disqualification of the members of the DCCB.

He submits that if the respondents who are defaulters are not taken into consideration, the impugned notice shall fail for want of quorum and therefore, it is liable to be set aside.

(e) Under the aforementioned circumstances, it is said that the petitioner filed the present writ petition.

4. In the Counter Affidavit filed by the 2nd respondent, it is submitted that one Ch.Devender Reddy and 13 others, who are arrayed as respondents 3 to 16, expressed their lack of confidence against the petitioner and gave a notice declaring their intention to move Motion of no-confidence against the petitioner. The Motion of no-confidence was signed by 14 Directors of DCCB, Medak at Sangareddy.

(a) It is further submitted that the 2nd respondent cannot go into the motive behind moving Motion of

no-confidence against the President and he has to only see as to whether the Motion of no-confidence is in accordance with the provisions of Section 34-A of the APCS Act and Rule 24-A of the Andhra Pradesh Cooperative

Societies Rules, 1964 (the APCS Rules, for short).

The 2nd respondent served notices on all members in person as well

as by registered post along with the copy of the motion moved by the respondents 3 to 16. The notice was issued on 04-3-2015 and was served on all members including the petitioner.

(b) Nextly, it is submitted that the petitioner can raise the issue setting forth his version on 26-3-2015 at the meeting as provided under sub-section (7) of Section 34-A of the APCS Act. It is further submitted that out of 20 existing members of the Managing Committee of the DCCB,

14 members have given a written notice of Motion of no-confidence against the President of the DCCB.

The 2nd respondent in discharge of his duties, issued letter dated 25-02-2015 to the Chief Executive Officer (CEO) of the DCCB calling for the list of all the defaulters of all the PACSs and he was requested to give the above details periodically. According to the respondents, the Motion of no-confidence has nothing to do with the issue of defaulters. It is the version of the respondents that even before the CEO of DCCB could respond to the letter dated 25-02-2015 sent by the 2nd respondent, the notice of Motion of no-confidence was sought to be moved by the respondents 3 to 16 on 02-3-2015 and therefore, the allegation that the letter of the 2nd respondent dated 25-02-2015 is the cause for issuance of the notice for Motion of no-confidence is absolutely false and invented.

(c) Contending as above, the respondents sought to dismiss the writ petition.

5. The issue to be determined in the present writ petition is whether there are any valid grounds to set aside the impugned notice whereunder the 2nd respondent proposed to hold Motion of no-confidence on 26-3-2015 ?

6. At the hearing of the writ petition, the learned Government Pleader for Cooperation submitted a statement relating to the dues of members of the Managing Committee as on 19-3-2015 which shows that the unofficial respondents are not defaulters as on 19-3-2015.

The learned counsel appearing for the petitioner, however, disputes the genuineness of the said statement. But, this Court is not supposed to make a roving enquiry into the said statement in exercise of jurisdiction under Article 226 of the Constitution of India. The contention of the learned counsel appearing for the petitioner is that the unofficial respondents are defaulters as on the crucial date, whereas the contention of the respondents is that they are not defaulters on the crucial date. In any event, the admitted fact is that so far, none of them have been disqualified as on today under the provisions of the APCS Act. Therefore, unless they are disqualified as members in accordance with the provisions of the APCS Act, it is not open for the petitioner to contend that they are not eligible to participate and vote at the meeting of Motion of no-confidence.

7. This Court, unless there is a manifest irregularity or illegality as to the procedure in holding the meeting of the proposed Motion of no-confidence, is not supposed to make an enquiry into the motive behind the moving of Motion of no-confidence against the petitioner. When majority of the members expressed want of confidence in the petitioner and issued a notice to the 2nd respondent to fix a date for conducting a meeting, it is obligatory on the part of the 2nd respondent to hold a meeting of Motion of no-confidence as contemplated under Section 34-A of the APCS Act. Relying upon the mere version of the petitioner relating to motive behind the Motion of no-confidence, this Court is not supposed to set aside the impugned notice unless there is manifest irregularity or illegality. The petitioner is not able to show that the Motion of no-confidence, which is proposed, is contrary to the provisions of the APCS Act or the APCS Rules. In the absence thereof, this Court is not supposed to accede to the request of the petitioner to set aside the impugned notice. When the Motion of no-confidence is proposed to be moved and if it is in accordance with the provisions of the APCS Act and APCS Rules, this Court is not expected to set aside the impugned notice by taking into

consideration some extraneous material. Further, the petitioner has liberty to challenge the result of Motion of no-confidence by way of an appeal under Section 76 of the APCS Act.

8. Therefore, I am of the considered view that no case is made out by the petitioner to set aside the impugned notice. The writ petition is, therefore, dismissed.

The miscellaneous petitions, if any, pending in this writ petition shall stand closed. No costs.

R.KANTHA RAO, J.

24th March, 2015.

Note:-

L.R. Copy to be marked.

(B/o) Ak

HON'BLE SRI JUSTICE R.KANTHA RAO

24th March, 2015.

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