

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.18510 of 2015

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for respondents 1 and 2 and learned counsel for respondent No.3.

This writ petition is filed challenging the nomination of the 3rd respondent as Chairman of Agricultural Market Committee, Divi Head Quarters, Avanigadda, Nagayalanka Mandal, Krishna District, by G.O.Rt.No.398 Agricultural Cooperative (Marketing-1) Department, dated 28.05.2015 on the ground of his conviction in C.C.No.456 of 2011 by the Additional Judicial First Class Magistrate, Avanigadda on 15.05.2013.

The learned senior counsel Sri P.Gangaiah Naidu brought to the notice of this Court Sub-Rule 2 of Rule 25 of the A.P. (Agricultural Produce and Livestock) Market Rules, 1996. The said Rule reads as follows :-

- 2) Any member of a Market Committee may be removed by the Government.
 - a) If he acts in a manner which in the opinion of the Government is prejudicial to the working of the Market Committee or,
 - b) if he is convicted by a Court of law for any one or more offences under the Act or any other Act or the rules or bye-laws made thereunder unless a period of three years has elapsed from the date of expiry of such conviction or
 - c) if he becomes of unsound mind and stands so declared by a competent Court, or
 - d) if he is employed as a paid legal practitioner on behalf of the market committee or, as legal practitioner against the market committee or as an officer or servant under the Act.

He submits that since the 3rd respondent was convicted by a competent Court of law, the Government ought to have taken action for his removal in accordance with Rule 25 of the Rules. But the learned counsel appearing for 3rd respondent submits that no representation was made before the Government by the petitioner and an appeal against the conviction is pending before the appellate Court. He further submits that since the sentence was

suspended, the disqualification mentioned in Sub-Rule 2 of Rule 25 is not attracted to the 3rd respondent. He also submits that the offence in respect of which the conviction took place is a minor offence and nothing to do with discharge of the duties of the Chairman of the Market Committee.

Learned Government Pleader adopted the argument of the learned counsel for the 3rd respondent.

A reading of Sub-Rule 2 of Rule 25, makes it clear that it is left to the Government to remove a member, who incurred disqualification mentioned in Sub-Rule 2 of Rule 25. It is an admitted case that the 3rd respondent was convicted on 15.05.2013 and the conviction is in force though an appeal is pending. This Court is not inclined to express any opinion about the applicability of Sub-Rule 2 to the 3rd respondent at this juncture. Admittedly, the petitioner did not submit any representation bringing it to the notice of the Government which is competent to take action.

In the circumstances, the Writ Petition is disposed of giving liberty to the petitioner to submit a representation to the Government within one week from the date of receipt of a copy of this order and the Government shall take necessary action upon receipt of such application, in accordance with Rule 25, within a period of 30 days from the date of receipt of a copy of the representation. No costs.

The Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.RAMALINGESWARA RAO, J

Date : 29.06.2015

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