

**The Hon'ble Sri Justice C.V.Nagarjuna Reddy**

**Writ Petition No.25965 of 2011**

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**Dated 23.07.2015**

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**Between:**

Mutyala Kanaka Ratnam

**... Petitioner**

**and**

—

The Govt. of A.P.,  
rep. by its Prl.Secretary,  
Agriculture & Co-operation,  
Hyderabad and 4 others.

**...Respondents**

**Counsel for the petitioner: Mr.P.N.Murthy**

**Counsel for respondents 1 to 4: AGP for Co-operation (AP)**

**Counsel for respondent No.5: None appeared**

**The Court made the following:**

**Order:**

This Writ Petition is filed for a Mandamus to declare the action of the respondents, in conducting inquiry under Section 51 of the Andhra Pradesh Co-operative Societies Act, 1964 (for short 'the Act'), by stopping the election process to respondent No.5- Society, as illegal and arbitrary.

The petitioner is a former President of respondent No.5- Society. After expiry of the petitioner's term as the President, respondent No.1 has issued G.O.Rt.No.1222, Agriculture and Co-operation (Coop.IV) Department, dated 22-09-2007, constituting Non-official Person Incharge Committee to conduct the affairs of respondent No.5- Society upto 12-04-2008 or till the elections are conducted, whichever is earlier. Assailing this Order, the petitioner filed WP.No.21736 of 2007. By Order, dated 14.10.2008, this Court has disposed of the said Writ Petition by holding that as the term for which the Committee was appointed has expired, there is no need for adjudicating the Writ Petition on merits. However, a direction was issued to respondent No.2 to initiate necessary steps for conducting the elections to the Managing Committee of respondent No.5- Society. Later, the petitioner has filed another Writ Petition viz., WP.No.705 of 2009 with the grievance that the election process was not initiated. By Order, dated 22-01-2009, in WPMP.No.874 of 2009, this Court has granted interim direction to the respondents to initiate the election process for holding elections. The petitioner has filed Contempt Case No.1469 of 2009, alleging wilful disobedience of the said interim order. However, thereafter, the District Collector, who is the election authority, has issued the election notification on 16-11-2009.

It appears that during the election process, the same was sought to be interrupted by a group of persons by indulging in violence for which a criminal complaint was made on 07-12-

2009. Pending completion of the election process, respondent No.3 has issued the proceeding in Rc.No.4047/2007/E, dated 01-08-2011 (mistakenly shown as dated 01-08-2001 in the impugned notice), instituting an inquiry into the affairs of respondent No.5- Society under Section 51 of the Act. In connection with the said inquiry, respondent No.4 has issued the impugned notice to the petitioner calling upon him to attend the inquiry on 16-09-2011 at 11.00 a.m., along with the details of the members of the Society, their addresses and the records connected therewith, if any, available with him. Feeling aggrieved by this notice, the petitioner filed this Writ Petition.

On behalf of respondent Nos.2 and 3, respondent No.3 has filed a counter-affidavit. It is *inter alia* stated therein that during the election process, it was noticed that the petitioner, who was the Ex-Chairperson of respondent No.5- Society, has not prepared the voters' list as per the rules; that the persons, who did not pay the share capital amount of Rs.300/-, were also included in the said list, as a result of which, the election officer could not complete the election process; that the election officer in his report, dated 23-02-2009, has reported that there is a membership dispute in the Society; and that he has received objections from one K.Moshe and 125 others to the voters' list prepared by the petitioner. It is further stated that this dispute has compelled respondent No.3 to institute an inquiry under Section 51 of the Act to inquire into the aspect relating to the membership in the Society in order to find out the genuine members and that, therefore, the impugned notice was issued to the petitioner.

From the pleadings of the petitioner, it is evident that he is not happy with the institution of inquiry under Section 51 of the Act and non-completion of election process.

Initiation of proceedings under Section 51 of the Act and

completion of election process are two distinct aspects. In the prayer, though the petitioner has sought for a declaration in generic terms that initiation of inquiry under Section 51 of the Act is illegal and arbitrary, he has failed to question the proceeding, dated 01-08-2011. When a serious dispute with regard to the genuine members of the Society touching its very constitution arose, I do not find any illegality in the institution of an inquiry under Section 51 of the Act. The petitioner, being former President of the Society, is responsible for his actions in connection with the admission of members into the Society and inclusion of their names in the voters' list. Therefore, he cannot avoid responding to the notice issued by respondent No.3. From the facts, it appears that unless the dispute relating to membership and the eligibility of voters is resolved, there is no possibility of completing the election process. Under these circumstances, I do not find any reason for the petitioner to feel aggrieved by the decision of respondent No.3 to hold an inquiry under Section 51 of the Act.

Therefore, I do not find any merit in the Writ Petition and the same is, accordingly, dismissed.

As a sequel to dismissal of the Writ Petition, WPMP.Nos.32044 and 36755 of 2011 are disposed of as infructuous.

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**(C.V.Nagarjuna Reddy, J)**

**Dt: 23<sup>rd</sup> July, 2015**

**LUR**