

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 17711 of 2015

DATED 18TH JUNE, 2015

BETWEEN

Bheemavarapu Narasimha Reddy and ors.

....Petitioners

And

State of Andhra Pradesh,

Cooperative Department, Secretariat,

Hyderabad and ors.

...Respondents.

HONOURABLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No. 17711 of 2015.

ORDER:

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Heard learned Counsel for the petitioners and learned Government Pleader for the respondents.

It is the case of the petitioners that they are the elected members of the 5th

respondent-Society. Allegations of irregularities committed by the petitioners came to light and thereby an enquiry was ordered under Section 51 of the A.P. Cooperative Societies Act (for short 'the Act'). The District Cooperative Officer appointed the Assistant Registrar to conduct a preliminary enquiry and submit report thereon and accordingly a preliminary report was submitted to the Divisional Cooperative Officer, who in turn, forwarded the proposals to the District Cooperative Officer for conducting a regular enquiry under Section 51 of the Act. The District Cooperative Officer issued proceedings dated 28.01.2015 directing the enquiry officer to complete the enquiry. The Enquiry Officer conducted the enquiry and submitted a report to the Divisional Cooperative Officer, who in turn, forwarded the same to the District Cooperative Officer. The District Cooperative Officer reviewed the report of the enquiry officer and issued proceedings dated 27.05.2015 directing the Deputy Registrar of Cooperative Societies to initiate surcharge proceedings and also to take further action under Section 34(1) of the Act.

Thereafter a show cause notice was issued by the Deputy Registrar of Cooperative Societies on 30.05.2015 and on receipt of the same, the petitioners submitted representations alike asking the Deputy Registrar of Cooperative Societies to furnish copies of the references 1 to 7 made in the show cause notice in order to enable them to submit explanation. The Deputy Registrar of Cooperative Societies instead of furnishing the documents as sought for by the petitioners opined that the petitioners wanted to drag on the matter since all the documents sought for by them are available in the society itself. He passed the impugned order dated 15.06.2015 construing that they have no explanation to submit since the President and 10 Directors have submitted representations for supply of documents and further time to submit explanation, whereas remaining two Directors have not submitted any representation. Accordingly, superseding the Managing Committee, he appointed the Assistant Registrar/Sale Officer working under the administrative control of the Divisional Cooperative Officer as Special Officer to manage the affairs of the fifth respondent-Society.

The learned Government Pleader submits that Section 34(1) of the Act provides for an opportunity to the petitioners, but they did not avail the same and wanted to drag on the matter.

Section 34(1) of the Act provides for giving opportunity to the Committee for

making its representation before passing the orders in supersession of the Committee. In the instant case, the petitioners for their well known reasons asked for furnishing of information/documents and the fourth respondent without furnishing the information, but opining that the said information is available in the Society itself construed that they have no explanation to submit and passed the impugned order. Since the right of the petitioners to submit their representation is affected in the manner indicated above, this Court thought it just and proper to set aside the impugned order dated 15.06.2015 so as to bring the power of the fourth respondent within the four corners of Section 34(1) of the Act. Accordingly impugned order dated 15.06.2015 is set aside.

In the light of the foregoing reasons, the fourth respondent shall furnish the copies of the documents sought for the by the petitioners within one week from the date of receipt of a copy of this order and obtain their acknowledgement or else, send them to their last known address. The petitioners shall submit their explanation within a period of ten days thereafter and the fourth respondent shall pass appropriate orders after considering the explanation/representation of the petitioners within one week thereafter in accordance with lawu.

The Writ Petition is allowed to the extent indicated above. Miscellaneous petitions pending consideration if any in the Writ Petition shall stand closed in consequence. No order as to costs.

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JUSTICE A.RAMALINGESWARA RAO

Dated 18TH JUNE, 2015.

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