

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.35655 of 2015

ORDER :

This writ petition is filed challenging the order dt.13.10.2015 of the 2nd respondent removing the petitioner from the membership of the Managing Committee/Directorship of 3rd respondent-Society on the ground that the petitioner had misused the society funds and on other grounds.

2. The impugned order states that a show cause notice dt.03.10.2015 was served on the petitioner on 06.10.2015, that the seven days time granted to the petitioner to submit explanation expired on 13.10.2015, and the petitioner had not submitted his explanation to the said show cause notice by then.

3. However, counsel for the petitioner contends that the show cause notice was in fact served on the petitioner on 07.10.2015, that the petitioner had submitted his explanation on 13.10.2015 within the period of seven days given under the show cause notice, and therefore the impugned order passed on 13.10.2015 requires to be set aside.

4. The learned Government Pleader appearing for 2nd respondent sought time to file a counter.

5. The show cause notice dt.03.10.2015 issued to the petitioner no doubt gave him one week time to submit his explanation to it. There is a dispute as to whether the show cause notice was served on the petitioner on 06.10.2015 or 07.10.2015. While the 2nd respondent states that it was served on 06.10.2015, the petitioner asserts that it was served on 07.10.2015.

6. Be that as it may, since the petitioner had admittedly submitted his explanation on 13.10.2015, on which date the impugned order has been passed without referring to

it, the impugned order is liable to be set aside.

7. Accordingly, the Writ Petitions is allowed; the impugned order is set aside; and the matter is remanded back to the 2nd respondent to pass orders afresh after considering the explanation submitted by the petitioner to the show cause notice dt.03.10.2015. There shall be no order as to costs.

8. Consequently, miscellaneous petitions pending, if any, shall stand dismissed.

M.S.RAMACHANDRA RAO, J

02nd November, 2015.

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