

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.34776 and 34980 of 2015

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COMMON ORDER:

After hearing the learned counsel for petitioners, implead petitioner and learned Government Pleader, these two writ petitions are being disposed of by a common order as they challenge the No Confidence motion issued to the petitioners.

The petitioner in W.P. No.34776/2015 is a President of the Primary Agricultural Cooperative Society Limited, Chilukur Village and Mandal, Nalgonda District, whereas the petitioner in W.P. No.34980/2015 is an executive member of the Managing Committee. The Society is not made a party to the writ petitions.

This is a second round of litigation initiated by the President of the Society. The elections of the Primary Agricultural Cooperative Society were conducted on 04.02.2013 and 13 Directors were elected including the petitioners. When a notice of No Confidence Motion was issued vide proceedings dated 24.03.2015 by calling a meeting for consideration of the motion against the petitioners on 17.04.2015, the petitioner in W.P. No.34776/2015 filed W.P. No.22901/2015, and this Court by order dated 28.07.2015 directed that the meeting shall go on, but the results shall not be declared until further orders. On 31.07.2015, the meeting did not go on as law and order problem was created and no decision was taken on the notice issued for consideration of No Confidence Motion against the petitioner. Though all the 13 Managing Committee members attended the meeting and when the discussion on the No Confidence Motion was taken place, the petitioner in W.P. No.34776/2015 has interrupted the meeting forcibly by taking away the minute book and intimidated the officials on duty. A complaint was lodged against the said petitioner and the situation was reported to the District Cooperative Officer (for short, 'the DCO'), Nalgonda, on 22.04.2015. The DCO in turn requested the Commissioner for co-operation and the Registrar of Cooperative Societies for necessary instructions. After receiving the instructions from the Registrar of Cooperative Societies, the DCO

vide proceedings dated 17.06.2015 instructed the Deputy Registrar of Cooperative Societies, Miryalaguda, to take police protection and conduct the proceedings. Accordingly, another notice was issued on 06.07.2015 fixing the date for consideration of the motion as 31.07.2015. That was challenged in W.P. No.22901/2015 and this Court by order dated 28.07.2015 directed that the meeting for consideration of No Confidence Motion shall go on, but the result shall not be declared until further orders. Though the meeting took place, but the result was not declared by virtue of the orders passed by this Court in the said writ petition. When the writ petition was taken up for consideration, the learned counsel for petitioner relied on a Division Bench decision of this Court in **B.Shekar v. Deputy Registrar of Co-operative Societies, Kurnool** and contended that a second meeting cannot be held beyond 30 days on the basis of the earlier requisition made by the members, and in view of the same, the proceedings dated 06.07.2015 were set aside giving liberty to the impleaded respondents in the said writ petition to submit a fresh requisition. Accordingly, a fresh requisition was received by the second respondent. On the basis of the same, the second respondent issued a notice on 06.10.2015, challenging which the present writ petitions were filed by the President and a Director of the Society respectively.

Learned counsel for the petitioners contended that the notice was not served on the petitioners giving clear 15 days time for consideration of the No Confidence Motion. In view of the said plea, in the present writ petition No.34776/2015 also this Court by order dated 27.10.2015, directed that the meeting shall go on, but the result shall not be announced until further orders. Accordingly, a meeting was held on 28.10.2015 as scheduled and the learned Government Pleader produced the record relating to service of notice on the petitioners and filed counter affidavit in this case stating as follows:

“In reply to the averments of Para Nos.12 & 13 of the affidavit under reply it is submitted that, as per order in W.P.No.22901 of 2015 dated 15.09.2015, the impleaded nine respondents therein has given fresh representation to this respondent on 30.09.2015 to cause No-confidence motion against the petitioner. As per the Section 34(A)(1)(2)(3) this respondent herein has issued proceedings vide Rc.No.407/2015-B, dated 06.10.2015, the 15 notices were entrusted to the Chief Executive Officer on 07.10.2015 to serve upon 13 Directors of the Society. Subsequently, the Chief Executive Officer of the PACS Ltd., Chilkur had served the said notices upon 11 Directors and the same were acknowledged by them on 12.10.2015 and affixed one more notice on the Notice Board of the Society. On 12.10.2015 and 13.10.2015 the Chief Executive Officer went to the House of

the petitioner/President of the Society to serve the said notice, at that time the petitioner with a intention to delay the process refused to take the notice. The petitioner received the same notice from the Chief Executive Officer on 15.10.2015 in the office of the PACS Ltd. Chilkur with duly acknowledging the Receipt. Further it is denied that this respondent has not followed the mandatory provisions of Section 34A(1)(2)(3) of APCS Act, 1964 and acted as per his whims and fancies.”

The record indicates that the notices sent for service on the members of the Managing Committee were received by 11 members on 12.10.2015 whereas the petitioners refused to receive the same. However, the petitioners came on their own on 15.10.2015, and filed the present writ petitions alleging non-service of notice on them by giving clear 15 days time. In view of the averments in the counter affidavit and the record disclosing the attempt to serve notice on the petitioners on 12.10.2015 itself, the contention of not giving 15 clear days notice cannot be accepted.

Learned counsel for the petitioners relied upon a decision of this Court in **Gaddampalli Jagpal Reddy v. District Collector, Nalgonda** and submitted that if the petitioners refused to receive the notice, the notice should have been sent by registered post and in the absence of sending the notice by registered post, the proceedings were vitiated.

Rule 24A of the A.P. Cooperative Societies Rules, 1964, reads as follows:

24-A. Meeting after receipt of no confidence notice:-

(1) As soon as the notice along with a copy of the motion expressing no confidence is received, the Registrar shall, notwithstanding anything in the bye-laws, convene a meeting of the committee.

(2) The service of notice may be effected in any of the following ways, namely:-

- a. by giving or tendering it to such person; or
- b. by sending it by registered post to their addresses.

(3) a copy of the notice shall also be affixed on the notice board of the society and also on the notice board of the Office of the Registrar:

Provided that if the area of Society extends to more than one Panchayat or Mandal Office the notice shall be affixed in all Panchayat Offices or Mandal Offices.

A reading of the above provision makes it clear that the notice can be served by any one of the modes viz., either by tendering or by sending it by registered post or by affixing on the Notice Board of the Society and also on the Notice Board of the Office of the Registrar.

In the instant case, an attempt was made to tender the notice and when the petitioners refused to receive the same, notice was affixed on the Notice Board of the Society. It is clear that 11 members of the Executive Committee received the notices on 12.10.2015 itself and the petitioners came on their own and received the notices on 15.10.2015 after refusing initially. In view of the compliance of the Rules, it cannot be said that the meeting, which was held on 28.10.2015, was contrary to the Rules. Hence, there are no merits in the writ petitions and the writ petitions are liable to be dismissed.

Accordingly, these Writ Petitions are dismissed. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in these writ petitions shall stand closed.

A.RAMALINGESWARA RAO, J

29.10.2015

Note: Issue C.C. in one week

(B/O)

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.34776 and 34980 of 2015

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Date: 29.10.2015

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