

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.22390 of 2014

ORDER :

Heard the counsel for petitioners, the learned Government Pleader for Co-operation (Andhra Pradesh) for respondents.

2. The 9th respondent herein is a primary agricultural co-operative credit society governed by the provisions of the Andhra Pradesh Co-operative Societies Act, 1964 (for short, 'the Act'). It has thirteen directors.
3. The 4th respondent herein got elected as the President of the Society in 2013.
4. On 07.06.2014, the Deputy Registrar of Co-operative Societies/Registrar, Tenali issued proceedings Rc.No.1052/2014-C dt.07.06.2014 to all the thirteen Directors of the Society stating that the petitioners as well as another individual have given a 'No Confidence Motion' against 4th respondent; and for that reason, to attend a meeting to be held on 24.06.2014 at 11:00 a.m. to be conducted by the Deputy Registrar to discuss the 'No Confidence Motion' against 4th respondent.
5. This was questioned by 4th respondent before the Government of Andhra Pradesh which issued a memo dt.23.06.2014 staying until further orders the proceedings of the Deputy Registrar dt.07.06.2014.

6. Contending that the Government of Andhra Pradesh has no role in the matter under the provisions of the Act and that the appeal thereunder lies to the Co-operative Tribunal constituted under the Act as per Section 76 thereof, this Court in WPMP.No.22677 of 2014 in WP.No.18096 of 2014 suspended the memo dt.23.06.2014 issued by the Government.
7. Subsequent thereto, on 28.07.2014, the Deputy Registrar again issued proceedings Rc.No.1052/2014-C fixing 18th of August, 2014 at 11:00 a.m. as the date and time when the 'No Confidence Motion' would be considered. But in this show-cause notice he deleted three persons by name Sri Kattupalli Premaiah, Sri Nakka Lakshmaiah and Sri Shaik Baji, who were earlier shown by him in the proceedings dt.07.06.2014, and included three new names therein.
8. In this Writ Petition, the writ petitioner assails the same and contends that once the Government Order has been suspended by this Court, it is the same directors who had moved the 'No Confidence Motion' indicated in the proceedings dt.07.06.2014, who can be allowed to pursue it, but not the three persons who have now been indicated in the proceedings dt.28.07.2014.
9. On 13.08.2014, this Court directed that 'No Confidence Motion' may go on, but its result shall not be declared.
10. The learned Government Pleader contends that respondent nos.5 to 8 in this Writ Petition have been co-opted pursuant to the removal and resignation of some of the Directors, and therefore, their names were not included in the proceedings dt.07.06.2014, which fact is disputed by counsel for petitioners. It

was also pointed out that in the counter-affidavit filed by respondent nos.1 to 3 it is specifically asserted that the Chief Executive Officer of the Society had given a report dt.07.06.2014 stating that the same Managing Committee Members, who got elected on 04.02.2013, were continuing as on 07.06.2014 also.

11. A Division Bench of this Court in **D. Madhava Reddy and others v. Collector (Co-operation), Warangal and another** has held, after construing Section 34-A(3) of the Act, that the grant of a stay by a Court of a 'No Confidence Motion' and the subsequent vacation thereof is taken care of by the proviso to Section 34-A (3); it provides that where the holding of a meeting to discuss the 'No Confidence Motion' is stayed by an order of the Court the meeting shall be adjourned, and the Registrar shall hold the adjourned meeting on a date not later than thirty days from the date on which he received the intimation of the vacation of stay, after giving to the members notice not less than fifteen clear days of such adjourned meeting; and that while the conditions precedent for taking action pursuant to the notice of proposed 'No Confidence Motion' are to be satisfied, at the same time, the Court must give full effect to the provisions meant to overcome situations that stall the progress of proceedings for 'No Confidence Motion'. It held that once a stay is vacated, the proviso to Section 34-A (3) comes into action and saves the validity of motion already given by the members of Managing Committee.
12. In view of this decision, and in view of the language in proviso to Section 34-A (3), it was not open to the Deputy Registrar to issue the notice dt.28.07.2014 containing the names of persons different from those mentioned by him in the proceedings

dt.07.06.2014, particularly when the Chief Executive Officer of the Society had given a report on 07.06.2014 that the same Managing Committee members, who were elected on 04.02.2013, continued as on 07.06.2014. Therefore, the Writ Petition is allowed and the impugned proceedings are set aside.

13. However, this will not preclude the Deputy Registrar (3rd respondent) from issuing a further notice for a meeting to consider the 'No Confidence Motion' keeping in view the above findings, and in compliance with the other requirements of law.

14. As a sequel, miscellaneous petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 09.11.2015

Ndr/*