

+WRIT PETITION No.15238 of 2011

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...Petitioner

Vs.

Hyderabad and others

...Respondents

for Mr.Koteswara Rao Mummaneni

Pleader for Cooperation (AP)

Counsel for respondent No.5: Mr.V.R.Machavaram

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>Head Note:

? Cases referred:

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THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.15238 of 2011

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24.06.2015

Between:

The District Cooperative Central Bank Limited, Kurnool
...Petitioner

And

The Government of Andhra Pradesh,
represented by its Principal Secretary,
Hyderabad and others

...Respondents

Counsel for the petitioner: Ms.V.Himabindu,
for Mr.Koteswara Rao Mummaneni

Counsel for respondent Nos.1 to 4: Assistant Government
Pleader for Cooperation (AP)

Counsel for respondent No.5: Mr.V.R.Machavaram

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The Court made the following:

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ORDER:

This writ petition is filed for a *mandamus* to set aside proceedings in Rc.No.21056/2010-Cr3, dated 06.05.2010 of respondent No.2. The petitioner sought for a consequential direction to respondent No.2 not to take any action in pursuance of the impugned proceedings.

The petitioner is the District Cooperative Central Bank Limited, Kurnool. The Chief Executive Officer of the petitioner bank in his affidavit averred that the petitioner bank was subjected to statutory inspection under Section 35 of the Banking Regulation Act, 1949 by the National Bank for Agriculture and Rural Development (NABARD) every year and that during the inspection in 2009-10, NABARD appreciated the petitioner bank. It is further averred that respondent No.5, who was the District Cooperative Officer, Kurnool, was not cooperating in the functioning of the Board of the petitioner bank and insisting upon it to implement her directions rather than Board's decisions. That as respondent No.4 had been using the driver employed by the petitioner bank, by name, S.Madduleti, the latter requested respondent No.4 to surrender the said driver. That when the petitioner bank dismissed two of its managers from service on 05.12.2007 and 08.02.2008 respectively, instead of pursuing the legal remedies, they have approached respondent No.4 to take up their cause. That respondent No.4, not pleased with the decision of the Board, called for report from the petitioner bank in respect of item

Nos.13 and 16 in the agenda of the meeting of the Board held on 03.08.2010 and the petitioner bank sent status report on the decision taken by its Board. The petitioner bank further averred that having developed prejudice against it, respondent No.4 prevailed upon respondent No.2 to institute an inquiry under Section 51 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act') against it for the following issues:

- “(i) Conduct of Managing Committee meetings during the last three Years;
- (ii) Action initiated by the then and present General Manager/Chief Executive Officer of the Bank in dismissing some employees from Bank's service;
- (iii) Promotions effected in the Bank in various cadres during the last three years.”

Accordingly, respondent No.2 has issued the impugned proceedings.

The tenor of the averments contained in the affidavit filed in support of the writ petition is to the effect that respondent No.4, who was impleaded as *eo nomine* party of respondent No.5, prevailed upon respondent No.2 with a *mala fide* intention to harass the management of the petitioner bank and the impugned proceedings, being the product of such malice, cannot be sustained. Respondent No.4 filed a counter-affidavit denying these allegations.

Though the petitioner bank has narrated the various events in detail to establish malice on the part of respondent No.5, as often said, allegations of *mala fides* are more easily made than proved. Malice is the state of mind of a person, which is difficult to be proved in a Court of law. Unless the malicious acts reflect in any illegal actions, the Court cannot interdict any such action, if the same is otherwise valid in law. Though the various events involving respondent No.5 culminating in the issue of impugned proceedings by respondent No.2 may have created a reasonable apprehension in the mind of the petitioner bank that the impugned proceedings are the result of the malicious acts of respondent No.5, the Court cannot lend its seal of

approval to this apprehension which cannot take the place of proof in the absence of evidence. Admittedly, under Section 51 of the Act, respondent No.2 is empowered to institute an inquiry into the working and financial condition of a society. The impugned proceedings show that based on the alleged irregularities pointed out by respondent No.4, respondent No.2 has thought it fit to institute an inquiry against the petitioner bank. While *mala fides* were attributed against respondent No.4, no malice has been imputed to respondent No.2. Even assuming that respondent No.4 has sent a report with malicious intention, it cannot be presumed that she, being a subordinate officer of respondent No.2, has influenced the latter in ordering the inquiry. At any rate, if the petitioner bank has not committed any irregularity as alleged by respondent No.4, it will come out clean in the inquiry.

Having regard to the above facts and circumstances of the case, I do not find any merit in this writ petition. However, it needs to be observed that as a period of five years had elapsed from the time of issuing the impugned proceedings, respondent No.2 shall examine the necessity or otherwise of holding the inquiry under Section 51 of the Act at this length of time.

Subject to the above observations, the Writ Petition is dismissed.

As a sequel to dismissal of the writ petition, interim order, dated 08.06.2011 in W.P.M.P.No.18291 of 2011 is vacated and W.P.M.P.No.18291 of 2011 and W.V.M.P.No.4402 of 2011 shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

24th June, 2015

Note: L.R. copies to be marked.

(B/o)

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