

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

—
WRIT PETITION No.18281 of 2015

ORDER:

The petitioners are President, Vice-President and Directors of Mortha Primary Agricultural Cooperative Society (for short, 'the Society'). They were elected to the Managing Committee on 31.01.2013. An inquiry was ordered under Section 51 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short, 'the Act') on 20.10.2014. The inquiry was conducted and a report was submitted by the Assistant Registrar/Sub-Divisional Cooperative Officer, Tanuku. The Inquiry Officer had reported that the Managing Committee of the Society failed to convene three consecutive general meetings on 30.03.2013, 30.09.2013 and 29.09.2014 and resolutions were passed in the general body meeting without quorum. It was also reported that the Managing Committee failed to conduct meetings for eleven months from 08.09.2013 to 10.08.2014. While so, the fourth respondent issued a notice under Section 34(1) of the Act on 23.05.2015 asking the petitioners to show cause why the Managing Committee cannot be superseded and an order shall not be passed under Section 34(1) of the Act. The petitioners were given time till 10.06.2015. All the petitioners submitted a representation on 15.06.2015 seeking handing over of the record in order to file an effective representation, since the record was seized by the authorities. Apprehending the passing of final order by the fourth respondent, the present Writ Petition is filed.

When the Writ Petition is taken up for consideration, learned Government Pleader produced a copy of the order passed by the fourth respondent on 22.06.2015 superseding the Managing Committee and appointing the Committee to manage the affairs of the Society for a period of six months from 22.06.2015. Learned Government Pleader also brought to the notice of this Court, the power of the fourth respondent to pass the impugned order under Section 115(D) read with

Section 34 of the Act.

It is clear from the above facts that the records of the Society were seized and kept in the custody of the respondents. The petitioners admit the receipt of the notice dated 23.05.2015 and they sought time for submission of explanation after perusing the records. Admittedly, the records are not with the petitioners and there is a dispute with regard to the conduct of meetings as contended by the learned Counsel for the petitioners. In that view of the matter, if a final order is passed on 22.06.2015 without affording an opportunity of hearing to the petitioners, the said order would be nonest in law. The apprehension of the petitioners came true.

In the circumstances, the final order passed by the fourth respondent on 22.06.2015, though it is not challenged in the present Writ Petition, but brought to the notice of this Court by the learned Government Pleader, is set aside and the fourth respondent is directed to make available the record for perusal of the petitioners within one week from the date of receipt of a copy of this order, and the petitioners are given liberty to file their explanation, if any, within one week thereafter. After receipt of the explanation from the petitioners, the fourth respondent shall pass appropriate orders in accordance with law, within a period of fifteen days thereafter. If the petitioners fail to file any explanation even after perusal of the record by them, it is open to the fourth respondent to pass appropriate orders.

The Writ Petition is, accordingly, allowed to the extent indicated above. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

23.06.2015

Note: Issue C.C in two days.

B/o.
vs