

**IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH**

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WRIT PETITION No.31581 OF 2015

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Between:

G.V.Suryaprakash Reddy .. Petitioner

And

The State of A.P.

Rep. by its Principal Secretary, Cooperation Department Secretariat, Hyderabad
and others.

.. Respondents

DATE OF JUDGMENT PRONOUNCED: 29-09-2015

SUBMITTED FOR APPROVAL:

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

1. Whether Reporters of Local newspapers Yes/No
may be allowed to see the Judgment?

2. Whether the copies of judgment may be Yes/No

marked to Law Reporters/Journals

3. Whether Their Lordship wish to

see the fair copy of the Judgment? Yes/No

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.31581 of 2015

ORDER:

Heard the learned Counsel for the petitioner and the learned Government Pleader for Cooperation.

The petitioner is the President of the fifth respondent – Society who was elected in the elections held in the year 2013. He was also elected as the Vice-President of the financing bank i.e. District Cooperative Central Bank Limited, Kurnool. When three directors of the fifth respondent – Society submitted a written notice of requisition to make the motion expressing want of confidence on the petitioner on 02.08.2014, the fourth respondent issued a notice dated 05.08.2014 to the members of the managing committee of the fifth respondent – Society for attending the meeting for considering the motion of no confidence. On 28.08.2014, the petitioner appears to have approached the government which initially granted stay of notice of the fourth respondent dated 05.08.2014 by memo dated 27.08.2014. Subsequently, the said stay was vacated on 21.02.2015. Challenging vacation of stay by the government without any notice to the petitioner, he filed W.P.No.5219 of 2015. This Court initially granted suspension of the order of the government but, after hearing the Writ Petition, dismissed the Writ Petition on 07.09.2015. It appears that interim suspension granted in W.P.No.5219 of 2015 was not continued after 29.04.2015. Consequent to the dismissal of the Writ Petition, the Vice-President of the Society submitted a representation dated 09.09.2015 seeking action against the

petitioner, and the fourth respondent issued a fresh notice dated 10.09.2015 for consideration of no-confidence motion moved by three directors on 02.08.2014, and fixed the date of meeting on 01.10.2015 for the said purpose. Challenging the said notice of the fourth respondent dated 10.09.2015, the present Writ Petition is filed.

Sri P.Gangaiah Naidu, learned Senior Counsel appearing for the petitioner, contended that, though interim suspension granted in W.P.No.5219 of 2015 did not continue after 29.04.2015, nothing prevented the fourth respondent from taking action, and the present notice is contrary to Section 34-A(3) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'). He relied on a Division Bench judgment of this Court in **B.Shekar v. Deputy Registrar of Cooperative Societies, Kurnool**.

Learned Government Pleader for Cooperation submitted that the fourth respondent came to know about non-continuance of the order of interim suspension in W.P.No.5219 of 2015 only after the Writ Petition was dismissed on 07.09.2015 and it cannot, therefore, be held that the order passed by the fourth respondent is bad.

Section 34-A of the Act provides mechanism to move the motion of no-confidence of the President and Vice-President of the Committee. Sub-section (3) of Section 34-A reads as follows:

"The Registrar shall convene a meeting for the consideration of the motion at the office of the society on a date appointed by him which shall not be later than thirty days from the date on which the notice under sub-section (2) was delivered to him. He shall give to the members notice of not less than fifteen clear days of such meeting in such manner as may be prescribed.

Provided that where the holding of such meeting is stayed by an order of a 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 about the vacation of stay, after giving to the members notice of not less than fifteen clear days of such adjourned meeting".

In the present case, requisition was given by three directors on 02.08.2014 and notice was issued by the fourth respondent in pursuance thereof on 05.08.2014 fixing the date of meeting on 28.08.2014 but the said

meeting did not take place as the government granted stay on 27.08.2014 which was later vacated on 21.02.2015. When the petitioner alleged that the government vacated stay without issuing notice to him, this Court granted interim suspension of the government memo by order dated 03.03.2015 for a period of six weeks which was extended later on by order dated 16.04.2015 for another two weeks. Thereafter, though a petition was filed by the petitioner seeking extension of the interim suspension, the said order was not extended. However, W.P.No.5219 of 2015 was dismissed on 07.09.2015.

A Division Bench of this Court in **B.Shekar** (1 supra), while interpreting Section 34-A(3) of the Act, held as follows:

“Under the provisions of sub-section (3) of Section 34(A), the date for the meeting for consideration of no-confidence motion shall not be later than 30 days from which notice was delivered under sub-section (2). No fresh intimation was given by the members subsequent to 01.10.2009 the date on which the first meeting was aborted. The proposed meeting on 09.11.2009 was in pursuance of the original intimation dated 02.09.2009 itself. As the proposed meeting on 09.11.2009 is clearly beyond the period of 30 days from the date of receipt of intimation on 09.09.2009, the same is not in accordance with the provisions of Section 34(A) of the Act and hence, the same is legally unsustainable.”

A perusal of the above decision of this Court makes it clear that, when the first meeting could not be held pursuant to the requisition, the second meeting should be fixed not later than 30 days from the date on which he received intimation about vacation of stay. After 16.04.2015, this Court granted extension of interim order by two weeks and there was no further order extending interim suspension. The fourth respondent should have taken action immediately after expiry of the period of two weeks from 16.04.2015, and the present notice is issued only after dismissal of W.P.No.5219 of 2015 dated 07.09.2015. In the circumstances, the impugned notice dated 10.09.2015, issued by the fourth respondent, is contrary to sub-section (3) of Section 34-A of the Act and is, accordingly, set aside.

Accordingly, the Writ Petition is allowed. However, this will not prevent the directors from making any fresh requisition against the petitioner, if they so desire. Miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A. RAMALINGESWARA RAO,J

Date:29.09.2015

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