

HON'BLE SRI JUSTICE VILAS V.AFZULPURKAR

W.P.No.11491 of 2015

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ORDER:

Heard the learned counsel for the petitioners, learned Government Pleader for Industries and Commerce and Sri K.Manmadha Rao, learned counsel representing Sri Mekala Rama Murthy, learned counsel for the 5th respondent.

The grievance of the petitioners is with regard to the impugned order passed by the 1st respondent on 16-04-2015, whereby the proceeding issued by the 2nd respondent, dated 10-04-2015 was stayed until further orders. The record, however, shows that the 2nd respondent vide proceedings Rc.No.363/2015-G, dated 07-03-2015, directed holding of elections and fixed the schedule for holding of elections. However, in the reference 1st cited, in the impugned proceedings, the date of order of the 2nd respondent is referred to as 10-04-2015 though the number is correctly shown. In fact, therefore, under the impugned order stayed the elections scheduled to be held as per directions of the 2nd respondent. The said order is questioned primarily on the ground that it violates Rule 22-C of the A.P.Co-operative Societies Rules, 1964 and that the 1st respondent has no such power to grant stay.

The issue involved in this writ petition is squarely covered by the Division Bench decisions of this Court reported in ***KATTA SIVAIAH Vs. GOVERNMENT OF ANDHRA PRADESH*** and ***D.MADHAVA REDDY Vs. JANGA RAGHAVA REDDY AND OTHERS***. Incidentally, I am one of the parties to both the said decisions and the ratio of the said decisions clearly stipulates that the power of the 1st respondent is quasi judicial and not merely administrative and on a judicial review the exercise of such power clearly falls outside the parameters under Rule 22 of the Rules referred to above.

In the present case also, on the alleged ground of irregularities in the electoral list, the elections are postponed and the learned Government Pleader states that the enquiry is under progress. However, such ground is not available within the prescription of Rule 22 (C) (1) of the Rules referred to above and laid

down in the Division Bench decisions noted above.

In view of that, the impugned order cannot be sustained and the same is liable to be set aside and is accordingly set aside. The 2nd respondent shall proceed further with the election process from the stage where it is stopped.

Accordingly, the writ petition is allowed. No order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

VILAS V.AFZULPURKAR, J

Date: 30-04-2015

Prv

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