THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.20873 and 26540 of 2014
and
WRIT PETITION Nos.2618 and 14737 of 2015

COMMON ORDER:

Heard the learned counsel for the petitioners, learned Government Pleader for Cooperation.

Since the issue involved in all these four writ petitions is one and the same, they are heard together and are being disposed of by this common order.

The elections of Anantapur Cooperative Town Bank Limited, Anantapuramu were held in the month of June, 2010. The said Bank is the petitioner in W.P.No.20873 of 2014 and the President of the Bank filed an affidavit stating that the 5th respondent is the President of the Anantapur Cooperative Town Bank Employees Association, who made a representation to the Hon'ble Union Minister for Price Monitoring, Consumer Affairs, Food and Civil Supplies Department on 09.07.2014 making certain personal allegations against the President of the Bank. On receipt of the same, the Hon'ble Minister for Civil Supplies addressed a D.O. letter on 09.07.2014 to the Hon'ble Minister for Cooperation, who made an endorsement to the Commissioner for Cooperation and Registrar of Cooperative Societies (2nd respondent) asking him to examine and seize the records and take appropriate action and inform him of the action taken by him. The Registrar of Cooperative Societies, in turn, made an endorsement to the District Cooperative Officer (3rd respondent) to conduct an enquiry personally and submit a report to him on 22.06.2014. The District Cooperative Officer issued proceedings dated 14.07.2014. In the said proceedings, the President of the petitioner-bank was asked to submit all the records and he was given a copy of the representation by the President of Employees Association (5th respondent). Another notice was issued on 18.07.2014 informing him of the representation submitted by the President of the Employees Association. Challenging the said proceedings, Writ Petition No.20873 of 2014 was filed and this Court granted interim suspension of the impugned proceedings by order dated 24.07.2014.

The learned Government Pleader while filing the counter affidavit, sought vacation of the said stay in W.V.M.P.No.2743 of 2014 and the writ petition is being disposed of finally with the consent of the parties.

When the above writ petition is pending, the Joint Registrar of Cooperative Societies issued a show cause notice under Section 34(1) of the A.P.Cooperative Societies Act, 1964 (for short, 'the APCS Act'), on 20.08.2014 based on an alleged report of the Divisional Cooperative Officer, Anantapuramu dated 18.08.2014. In the said show cause notice, it was alleged that the Managing Committee of the Anantapur Cooperative Town Bank Limited, Anantapuramu has flouted Sections 19 and 21 of the APCS Act and co-opted the wife of the President of Ananthapur Cooperative Town Bank Limited, Ananthapuramu as one of the Directors of the Cooperative Town Bank on 28.12.2010 in the place of vacant post of Director and overdraft loans were sanctioned to the friends and family members of the President of the bank as indicated in the said notice. Nearly 20 allegations were made against the Managing Committee and it was concluded that the Managing Committee Members have totally failed in managing the affairs of the Bank properly and are involved in improper management, mismanagement, non-compliance to R.B.I. Inspection reports, violating the provisions of the APCS Act and its Rules, Bank Byelaws, Banking Regulation Act and Banking norms for their personal gain, causing loss to the bank, etc. The Members of the Managing Committee were asked to submit their explanation to the said show cause notice. Challenging the same, Writ Petition No.26540 of 2014 was filed by all the Directors of the Bank and this Court granted interim stay of further proceedings by order dated 10.09.2014.

The learned Government Pleader filed counter affidavit along with a vacate stay petition in W.V.M.P.No.2652 of 2014, and in view of the same, the main writ petition itself is being disposed of finally with the consent of the parties.

The Directors of the Bank filed yet another writ petition in W.P.No.2618 of 2015 challenging the proceedings of the Registrar of Cooperative Societies dated 30.01.2015 superseding the Managing Committee under Section 115B(iii) of the APCS Act. In the order of supersession, it was stated that the Reserve Bank of India had come to the conclusion that it is necessary to supersede the Board of Directors of the Bank urgently and appoint an administrator thereof in view of the unsatisfactory state of affairs in the functioning of the bank and to prevent the affairs of the bank from being conducted in a manner detrimental to the interest of the depositors and for securing proper management of the bank, and, accordingly, the said order was passed. Challenging the said order, Writ Petition No.2618 of 2015 was filed, and this Court, by order dated 13.02.2015, granted interim suspension of the impugned order.

The said writ petition is coming up for orders on filing a vacate stay petition in W.V.M.P.No.434 of 2015 by the learned Government Pleader for Cooperation and this writ petition is also being disposed of with the consent of the parties.

The Deputy Registrar of Cooperative Societies, Anantapuramu, issued an order on 13.05.2015 under Section 21-AA of the APCS Act, holding that the Managing Committee Members of the Bank have ceased to be the Managing Committee Members with immediate effect and requested the District Cooperative Officer, Ananthapuramu, to appoint a Person-in-Charge under Section 32(7)(a)(i) of the APCS Act to manage the affairs of the bank as there is no committee. The reason stated in the said proceedings is that a petition was received from the Members of the Bank on 01.05.2015 stating that the appointments were made beyond the staffing pattern approved by the Registrar, were made without following due procedure and transparency and were made without observing required qualifications, and when the said petition was verified, it was found that the allegations were proved. The consequence to the said proceedings is that the Joint Registrar of Cooperative Societies/District Cooperative Officer, Ananthapuram issued proceedings on the same date appointing the Assistant Registrar, Office of the Sub-Divisional Cooperative Officer, Tadipatri as Person-in-Charge Committee of the Cooperative Town Bank, Ananthapuram for a period of three months or till the date of elections whichever is earlier to manage the affairs of the bank in the absence of the committee. Challenging those two orders, the Writ Petition No.14737 of 2015 was filed, and on 21.05.2015, this Court granted interim suspension of those two orders, as there was violation of principles of natural justice.

Learned Government Pleader filed a counter affidavit along with a vacate stay petition in W.V.M.P.No.1527 of 2015.

The plea taken by the Officers of the Cooperative Department is that as per the usual procedure, a preliminary enquiry has to be conducted whenever a complaint is received against the Society or Bank. Consequent to the endorsement made by the District Cooperative Officer, Ananthapuramu, he directed the Managing Committee of the Bank to make available all records for preliminary enquiry by order dated 14.07.2014. The verification of gold loan ledgers revealed that overdraft was provided by the President to his wife, son and others to a tune of nearly Rs.87 lakhs. It was stated that the said loans were availed during the period of 2008 to 2011 and they were closed during the period of 2009 to 2012. While sanctioning those loans, it was noticed that there was variance in weighment of the gold in the bank and the interest on the overdraft account was not applied properly. There was no uniformity in collecting the process fee and service charges. The President of the Bank flouted the R.B.I.Master Circular dated 02.07.2012, which prohibits the Director or their relatives from getting the loans and advances as a secured or unsecured or any other financial accommodation. It was also stated that the Bank purchased strong room chest, air conditioners, electrical wiring, computers, furniture, etc., and simply passed a resolution simply in a Board meeting on 17.05.2011 without calling for tenders violating the procedure, and in those circumstances, a representation was received for causing an enquiry under Section 51 of the APCS Act.

In the next writ petition, i.e., W.P.No.26540 of 2014, the defence taken by the Department is that the District Cooperative Officer, Ananthapuramu submitted a preliminary report on 22.07.2014 and noticed serious violations of the provisions of the APCS Act and its Rules and R.B.I.Instructions, and on noticing the same, the first writ petition, W.P.No.20873 of 2014 was filed and in view of the stay granted by this Court on 24.07.2014, no further action was taken. The subsequent proceedings, which were challenged in W.P.No.26540 of 2014, were based on the preliminary enquiry conducted by the Divisional Cooperative Officer, Ananthapuramu, who submitted his report on 22.07.2014. The counter affidavit further states that the Divisional Cooperative Officer, Ananthapuramu, submitted a detailed report on 18.08.2014, and based on the same, a show cause notice was issued under Section 34(1) of the APCS Act seeking their explanation. They relied on a decision of the Supreme Court in ***Joint Registrar of Cooperative Societies, Madura v. P.S.Rajagopala Naidu***[1] and submitted that no statutory enquiry or inspection is necessary for forming an opinion and for issuing a notice for supersession.

The President of the Employees Association submitted a complaint to the Reserve Bank of India to enquire into the affairs of the Bank and it conducted an annual inspection and traced out rampant corruption, fraud, cheating, misappropriation of bank funds, highhanded behaviour, harassment of staff by the President of the Bank, etc., since April, 2012. In view of the direction of the Reserve Bank of India, action was taken under Section 115-B(iii) of the APCS Act by issuing proceedings on 13.05.2015. A complaint was received from the Members of depositors of the bank on 01.05.2015 with regard to the appointments made to the bank beyond the staffing pattern approved by the Registrar of Cooperative Societies and also contravening the procedure and transparency. The Deputy Registrar of Cooperative Societies, Ananthapuramu, conducted an enquiry and found that the allegations are proved against the petitioners. Accordingly, proceedings were issued on 13.05.2015 under Section 21-AA of the APCS Act holding that all the members of the Committee are ceased to be the members of the Managing Committee members of the Bank and the District Cooperative Officer, Ananthapuramu was requested to appoint a Person-in-

Charge and the District Cooperative Officer accordingly appointed a Person-in-Charge.

The learned counsel for the petitioners filed an additional affidavit along with certain papers including the copy of the statutory inspection report under Section 35 of the Banking Regulation Act, 1949. The said statutory inspection was conducted with reference to its financial position. The Reserve Bank of India addressed a letter dated 15.04.2014 to the CEO/Secretary of the Bank directing him to place the letter before the Board of Directors of the Bank and he was asked to furnish the compliance on each of the irregularity pointed out in the inspection report within a period of six weeks from the date of receipt of the letter, failing which, it was indicated that penal action would be initiated against the bank. One of the irregularities pointed out in paragraph No.5.2.8 of the said report relates to the granting of loans to relatives of the Directors and it reads as follows:

> "The bank had not granted any loans to directors/their relatives during the period. However, out of two loans granted earlier to relatives of directors, one loan was closed during the period covered under review and the other was outstanding as on March 31, 2013. One OD against gold ornaments (JLOD) sanctioned to Smt. Varalakshmamma on July 15, 2011 (Rs.12.00 lakhs) mother of Smt. B.Suseela, one of the directors of the bank, was repaid on April 5, 2012 and other gold loan of Rs.0.40 lakh sanctioned on September 27, 2011 to Shri A.Siva Prasad, son of Shri A.Nagaraju, director of the bank was repaid on November 26, 2013. Thus, the bank had violated RBI guidelines indicated in para 5 of RBI circular UBD.CO.BPD.MC.No.8/12.05.001/2012-13 dated July 2, 2012 prohibiting granting of loans and advances to directors and their relatives.
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> Further, transfer of funds was observed from accounts of different borrowers who availed loans from the bank, to the SB account of Smt. B.Suseela, director and wife of the president of the bank against the spirit of the circular mentioned above. The loan amounts were credited to the savings bank accounts of the borrowers and were transferred to SB account of Smt. Suseela as detailed below:

S.No.	Name of the borrower and loan No.	Date and amount of transfer
1	Shri C.Sree Ramulu LT-1284 (SB a/c No.7242)	15.12.2012, Rs.3.50 lakh
2	Smt. D.Marekka LT-1288 (SB a/c No.7266)	21.12.2012, Rs.3.00 lakhs

3	Smt. P.Suseelamma LT-1292 (SB a/c No.7269)	31.12.2012, Rs.5.00 lakh
4	Shri D.Venkataiah LT-1287 (SB a/c No.7264)	19.12.2012, Rs.4.50 lakh
5	Shri K.P.Chandra Mouli LT-1285 (SB a/c No.7262)	17.12.2012, Rs.2.00 lakh
6	Smt. G.Yasodamma LT-1286 (SB a/c No.7261)	17.12.2012 Rs.3.00 lakhs

It appears that the Bank submitted a letter on 18.07.2014 intimating the Reserve Bank of India that the inspection report and the remarks were placed in the Board meeting held on 17.07.2014. The Reserve Bank of India found that the compliance was not satisfactory and the bank was advised to submit further compliance within two weeks from the date of said letter. The further compliance was submitted by the Bank to the Reserve Bank of India on 29.10.2014. It appears that consequent to the inspection conducted, a post-inspection meeting was held between the R.B.I. and the petitioner-Bank, where, apart from the Officers of the R.B.I., the President, CEO, Chief Advising Officer and the Accountant of the Bank were present. The correspondence between the petitioner-Bank and the R.B.I. went on in the month of November, 2014. In its final memo, submitted to the R.B.I., pursuant to the inspection report dated 31.03.2013, it was indicated that all the loans were cleared before 29.10.2014 as public auction would take place on that day. Ultimately, it appears that the Reserve Bank of India addressed a letter on 15.01.2015 to the Commissioner for Cooperation and Registrar of Cooperative Societies stating that the President of the Employees Association earlier addressed a letter on 11.04.2014, he was following up the matter with the R.B.I. and the scrutiny conducted by the Hyderabad Regional Office of R.B.I. revealed misappropriation of funds by the Chairman, Directors and other Officials, Director related loan, and other serious managerial irregularities, deficiencies/ regulatory violations in the functioning of the bank and the major statutory and regulatory violations, managerial irregularities, deficiencies, etc., were indicated in the said letter. In conclusion, it was stated that the Reserve Bank of India had come to a conclusion that it was necessary to supersede the Bank urgently and appoint an Administrator thereafter.

On the basis of the above pleadings, it was contended by the learned counsel for the petitioners that the allegations levelled by the President of the Employees Association were earlier enquired by the Lokayuktha and the matter was closed. He further submitted that the proceedings were initiated only due to political rivalry with a mala fide intention.

The said contention of the learned counsel for the petitioners is refuted by the learned Government Pleader stating that the allegations against the petitioners were never enquired into and the allegations were not closed by the Hon'ble Lokayuktha on merits, but the matter was closed as the present writ petitions are pending consideration before this Court.

The learned Senior Counsel appearing for the R.B.I. vehemently contended that in view of the irregularities committed by the petitioners, the Reserve Bank of India came to a conclusion that an Administrator has to be appointed for efficient functioning of the bank.

It is admitted by all the parties that the term of the Managing Committee of the Bank came to an end by 30.06.2015 and in spite of the order of this Court dated 21.05.2015, a Person-in-Charge is continuing the affairs of the bank.

It is to be noted that by virtue of the pendency of the above four writ petitions, the authorities could not conduct an enquiry as contemplated under Section 51 of the APCS Act. A Person-in-Charge as sought to be appointed by the authorities only at the instance of the Reserve Bank of India and the Reserve Bank of India being the highest regulatory body in the country, one cannot attribute any motive to its actions, which are meant to be in public interest. Though the learned counsel for the petitioners submitted that the action of the Reserve Bank of India is also motivated by the pressure exerted by the President of Employees Association, this Court is not inclined to accept the said contention in view of the role played by the Reserve Bank of India.

Initially, by proceedings of the District Cooperative Officer dated 14.07.2014, the President was asked to submit all records pursuant to the representation filed by the President of the Employees' Association. Later on, the Registrar of Cooperative Societies issued a show cause notice under Section 34(1) of the APCS Act on 20.08.2014 levelling nearly 20 allegations against the Managing Committee. Thereafter, the Managing Committee of the Society was sought to be superseded on the directions of the Reserve Bank of India issued under Section 115-B of the APCS Act. It was followed by an order dated 13.05.2015 to the Deputy Registrar of Cooperative Societies, Ananthapuram issued under Section 21-AA of the APCS Act holding that the Managing Committee Members of the Bank ceased to be Managing Committee Members and requesting the District Cooperative Officer to appoint a Person-in-Charge. In fact, the District Cooperative Officer, Ananthapuram issued orders on the same day appointing a Person-in-Charge. All these orders were kept in suspension by the orders of this Court in the concerned writ petitions. The result is that no enquiry took place and the Managing Committee was not superseded. However, by virtue of the orders dated 13.05.2015, it is submitted by the learned counsel for the petitioners that even though a Person-in-Charge was appointed and the said order was suspended by this Court in W.P.No.14737 of 2015 on 21.05.2015, the Person-in-Charge continued to hold office till the term of the elected Managing Committee came to an end. Now since the elected Managing Committee is out of office and a Person-in-Charge is appointed, the way is paved for the authorities to conduct an enquiry based on the records available with the Bank.

Thus, no adjudication is required in W.P.No.20873 of 2014 and is accordingly dismissed as infructuous.

W.P.No.26540 of 2014 was directed against a show cause notice 20.08.2014 issued for supersession of the Committee and that writ petition also becomes infructuous in view of the subsequent developments. Similarly, in view of the expiry of the term of the elected body, no orders need be passed in W.P.Nos.2618 and 14737 of 2015 also.

Thus, without expressing any opinion on the merits of the case and rival contentions made before this Court, all these four writ petitions are dismissed as infructuous. There shall be no order as to costs. As a sequel, miscellaneous petitions, if any pending in these writ petitions, shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 14-07-2015

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[1] AIR 1970 SC 992