

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.361 of 2010

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Between:

1. Neelam Veera Raghava Rao and others.

PETITIONERS

AND

1. The Deputy Registrar of Cooperative Societies, Peddapuram, East
Godavari District, and another.

RESPONDENTS

ORDER:

The petitioner challenges the order dated 28.07.2009 passed by the A.P. Cooperative Tribunal, Visakhapatnam in O.A.No.46 of 2008 confirming the surcharge proceedings issued by the 1st respondent vide orders dated 9.10.2006, as arbitrary and illegal.

Brief facts of the case are that the 1st petitioner was elected to the post of

President and petitioners 2 to 8 were elected as members of the Managing Committee of the erstwhile Palem PACS Limited for the period 1995-2000. Subsequently, the said society was merged into the 2nd respondent-society. The Joint Registrar/District Cooperative Officer, Kakinada vide proceedings dated 11.04.2002 ordered inquiry under Section 51 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') against the affairs of Palem PACAS. The inquiry officer filed his report dated 5.12.2002. Basing on the findings of the Inquiry report, the 1st respondent ordered notice under Section 60 (1) of the Act on 29.04.2006 for conducting independent inquiry to all the persons connected with the issues. After completion of the enquiry the 1st respondent passed orders dated 9.10.2006 observing that the 1st petitioner, being the in-charge of the society, had made irregular appointment of one P.V. Palla Rao as Clerk in the Society and passed a resolution on 26.12.1996, which was counter signed by all the Members, and thereby, they have to own responsibility on account of the salary of the said Clerk P.V. Palla Rao at Rs.1,54,108/-; they have also appointed one Goli Subba Rao as Attender with effect from 01.01.2000, and the salary amount paid to the said Goli Subba Rao resulted in expenditure of Rs.47,068/-. The amounts which the society has incurred on account of the illegal acts of the petitioners is to the tune of Rs.2,01,968/- together with interest @ 18% p.a. from the date of appointments to the actual date of realization. The said amount was directed to be recovered from the petitioners. The petitioners challenged the same before the A.P. Cooperative Tribunal, Visakhapatnam in O.A.No.46 of 2008. The Tribunal by order dated 28.07.2009 confirmed the order passed by the 1st respondent. Aggrieved by the same, the petitioners filed the present writ petition.

This Court while issuing Rule Nisi on 19.01.2010 granted interim stay for a period of four weeks and the same was extended until further orders on 24.02.2010.

The 1st respondent filed W.V.M.P.No.1999 of 2012 seeking to vacate the interim order. Along with the vacate petition a counter affidavit has been filed by the 1st respondent stating that he has conducted surcharge enquiry under Section 60 of the Act and passed orders dated 9.10.2006 for an amount of Rs.1,54,900/- and Rs.47,068/- together with interest @ 18% p.a. towards irregular appointments made by the petitioners during their tenure as Managing Committee of the Palem Primary Agricultural Cooperative Credit Society Limited, and against the said order

O.A.No.46 of 2008 filed by the petitioners before the A.P. Cooperative Tribunal, Visakhapatnam was also dismissed on 28.07.2009 confirming the order of the 1st respondent, and the same is valid, legal and in accordance with law, and hence there are no bona fides in the writ petition and the same is liable to be dismissed.

Though Writ of Certiorari has been filed questioning the order of the Tribunal, except stating that the Tribunal had failed to appreciate the contentions raised by the petitioners and consider the material placed before it, there is no other irregularity or lack of jurisdiction either on the part of the Deputy Registrar or the Tribunal has been raised. It is also not the case of the petitioners that adequate opportunity was not provided to them, thereby violating the principles of natural justice.

The twin conditions, which are pre-requisite for a Writ of Certiorari i.e., lack of jurisdiction on the part of the authority and violation of principles of natural justice, are absent in the present case. Therefore, the writ petition fails and the same is liable to be dismissed.

Accordingly the writ petition is dismissed. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

17th November, 2015

Js.