

*** THE HON'BLE SRI JUSTICE P. NAVEEN RAO**

+ WRIT PETITION.No.40085 OF 2015

% 10.12.2015

Konala Saheb Reddy S/o.Subbi Reddy,
Aged about 50 yrs, Occu : CEO (Under Suspension),
Penumantra Large Sized Co-operative Society Ltd.,
Penumantra Village & Mandal,
West Godavari District. .. Petitioner

And

\$ The State of Andhra Pradesh,
Rep., by Principal Secretary,
Co-operation Department,
Secretariat Buildings, Saifabad Hyderabad & 4 others.
.. Respondents

! Counsel for the petitioner : V.Venugopala Rao

Counsel for R.1. to R.4 : Government Pleader for
Co-operation.

Counsel for R.5 : Sri S. Subba Reddy

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> Head Note :

? Citations:

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.40085 of 2015

Dated : 10.12.2015

Between:

Konala Saheb Reddy S/o.Subbi Reddy,
Aged about 50 yrs, Occu : CEO (Under Suspension),
Penumantra Large Sized Co-operative Society Ltd.,
Penumantra Village & Mandal,
West Godavari District.

.. Petitioner

And

The State of Andhra Pradesh,
Rep., by Principal Secretary,
Co-operation Department,
Secretariat Buildings, Saifabad Hyderabad & 4 others.

.. Respondents

This Court made the following :

THE HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.40085 of 2015

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ORDER :

The petitioner is a Secretary of Penumantra Large Sized Co-operative Society Ltd., (5th respondent). Petitioner is aggrieved by the order of the

Deputy Registrar of

Co-operative Societies dated 08.10.2015 and consequential decision of the Person-in-Charge Committee vide Resolution No.2 dated 13.10.2015 and the communication of the order suspending the petitioner from service by proceedings of the President, person-in-charge Committee dated 13.10.2015.

2. A reading of the order of suspension dated 13.10.2015 and the order of the District Registrar dated 08.10.2015 would show that in the enquiry conducted under Section 51 of the Andhra Pradesh Co-operative Societies Act (for short 'the Act'), certain financial irregularities were noticed and the enquiry findings point out *prima-facie* involvement of the petitioner. Having regard to the grave financial irregularities, in the process of initiating the disciplinary action, the petitioner's services are placed under suspension.

3. Learned counsel for the petitioner made two submissions. In the special audit conducted for the financial year 2012-13 petitioner was held not responsible. Therefore, the question of taking further course of action and implicating the petitioner is unwarranted. Alternatively, learned counsel submits that Section 51 Enquiry report has to be placed before the General body of the Society in accordance with Section 30 of the Act, and unless the General Body approves the report, no further course of action can be taken. In support of the said contention, learned counsel placed reliance on provisions contained in Section 59 of the Act and specifically Section 30 (xiv). In the instant case, even before the matter is placed before the General Body, the impugned action is taken. He further submits that Section 59 of the Act comes into operation only when General Body approves the report in accordance with Section 30 of the Act.

4. To appreciate the said contention, it is necessary to understand the scope of Sections 51, 30 and 59 of the Act. Section 51 envisages conducting of enquiry. The Registrar on his own or on the application of a Society can hold enquiry into the constitution, working and financial conditions of the Society. On completion of the enquiry, the enquiry report should be communicated to the Managing Committee of the Society. It shall be the responsibility of the Managing Committee to place the enquiry report before the General Body or Special General Body for the purpose of its action within a period of one month from the date of communication of the enquiry report by

the Registrar. If no action is taken as warranted above, the Registrar is competent to initiate action on his own.

5. Section 30 (xiv) vests power in General Body to consider reports prepared under various provisions of the Act including Section 51 of the Act. The provision in Section 30 (xiv) has to be read in consonance with the provision contained in Section 51. Section 59 of the Act vests power in the Registrar to order disciplinary action against employees of the Society, if in the audit conducted under Section 50 or enquiry conducted under Section 51 or inspection conducted under Section 52 & 53 of the Act, it is brought to the notice of the Registrar, that an employee or officer of the Society has committed mis-appropriation, breach of trust or other offences relating to Society and there is *prima-facie*, evidence against such officer/servant. He can also direct the society to place such officer/servant under suspension.

6. A cumulative reading of these provisions make it clear that Section 59 is independent and vests power in the Registrar to act based on the enquiry report under Section 51 without waiting for it to be ratified or acted upon by the General Body of the concerned Society, the moment it comes to his notice that there is *prima-facie* case against employee/officer of the Society. In the instant case, in exercise of the said power, the Registrar issued orders on 08.10.2015 in terms of the provision contained in Section 59 of the Act. The matter was considered by the Committee of persons-in-charge of the Society and has taken decision to place the petitioner under suspension having regard to the serious allegations leveled against the petitioner and the same is communicated by the President of persons-in-charge Committee of the Society.

7. The orders impugned in the writ petition are in compliance of the statutory mandate. There is no procedural irregularity or illegality. Prima-facie, material on record would show that grave allegations of financial irregularities are made against the petitioner. When there are grave allegations of financial irregularities, public interest requires the officer should not be continued pending investigation/enquiry and has to placed under suspension. Therefore, I do not see any illegality or irregularity in the order impugned in the writ petition warranting interference by this Court.

8. Learned counsel for the petitioner also contends that the officer

who signed the order on 13.10.2015 is also one of the person on whom allegations are made. Ordinarily such contention merits consideration. However, in the facts of this case, on that ground the order need not be set aside. In terms of the provision contained in Section 59 the competent authority to mandate and place the officer/employee under suspension is the Registrar, based on prima-facie material of financial irregularities. This mandate under Section 59 of the Act is required to be complied by the Committee of persons-in-charge of the Society. The matter was considered and the Committee of persons-in-charge of the Society has taken the decision to suspend the petitioner. The President has merely communicated the decision of the Committee of persons-in-charge of the Society. He has not taken a decision on his own and therefore, on that ground the order need not be nullified.

9. Having regard to the same, I do not see any merit in the writ petition and accordingly it is dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

10th December, 2015

P.NAVEEN RAO,J

Note:

L.R. copy to be marked.

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