

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION NO.31532 OF 2012

DATED:23-7-2015

Between:

Boddeda Prasad ... Petitioner

And

Government of Andhra Pradesh

Rep. by its Secretary

Agriculture and Co-operation (Co.Op-I) Department

Secretariat

Hyderabad

and others ... Respondents

... Respondents

COUNSEL FOR THE PETITIONER: Mr. P. Sri Raghu Ram,

for Mr. V.V.N. Narayana Rao

COUNSEL FOR RESPONDENT NOs.1 to 3: A.G.P. for Co-operation

COUNSEL FOR RESPONDENT NOs.4 and 5: None appeared

THE COURT MADE THE FOLLOWING:

ORDER:

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This writ petition is filed for the following substantive relief:

*“...to issue an appropriate writ, order or direction more particularly one in the nature of Mandamus declaring the action of the second respondent in directing conduct of third enquiry into the affairs of the fifth respondent society despite acceptance of two earlier reports by him in respect of the very same allegations and further action of the second respondent in causing enquiry through the respondents 3 and 4 is clearly without authority of law and in violative of the procedure contemplated under the*

*Andhra Pradesh Co-operative Societies Act, 1964, and consequently set aside Rc.No.12418/2010/ RESCO/PE-1, dated 22.8.2012 and also the letter in Rc.No.12418/2010/PE-RESCO, dated 14.09.2012 of the second respondent."*

Despite passage of more than two and a half years time, no counter affidavit is filed justifying the impugned order. This Court on 9.10.2012 while ordering notice before admission passed a detailed interim order, the relevant portion of which reads as under:

*"A perusal of the record shows that in pursuance of the institution of the first preliminary enquiry, the District Co-operative Audit Officer, Visakhapatnam, and the Divisional Co-operative Officer (FAC), Visakhapatnam, submitted a detailed enquiry report, on 09-05-2008, wherein they have found no basis for all the 11 alleged irregularities and recommended to drop further action. Accordingly, the file was circulated to all the concerned Officials including the Principal Secretary and the Minister for Co-operation, who have unanimously decided to drop further action after accepting the said preliminary report and letter, dated 31-05-2011 was addressed by the Principal Secretary to the Government, Co-operation Department, to the Leader of the Opposition in A.P. Legislative Council to that effect.*

*Once again a second preliminary enquiry was instituted in respect of which preliminary enquiry report, dated 31-10-2011, was submitted by the Divisional Co-operative Officer, Visakhapatnam, a perusal of which shows that after an elaborate consideration of the allegations, the enquiry officer held them not proved. On considering the said report, letter, dated 01-12-2011, was addressed by respondent No.2 to the Principal Secretary, the Minister of Tribal Welfare, wherein it was stated that the enquiry officer, in his report, held all the 16 allegations not proved in the light of the documentary evidence and that an enquiry under Section 51 of the A.P.Co-operative Societies Act, 1964, is not warranted.*

*Undeterred by the aforesaid two enquiry reports and dropping all further action, respondent No.2 has once again embarked upon a third preliminary enquiry by the impugned proceeding dated 22-08-2012. In my prima facie opinion, in the face of the two preliminary enquiry reports, which exhaustively dealt with all conceivable allegations, institution of a third preliminary enquiry constitutes sheer abuse of powers vested in respondent Nos.1 and 2. Therefore, there shall be stay of all further proceedings including holding of preliminary enquiry in pursuance of the impugned proceeding, dated 22-08-2012, of respondent No.2, pending further orders."*

Without contesting this writ petition, respondent No.2 has issued fresh proceedings in Rc. No.11484/2014-PE, dt.26.9.2014, initiating inquiry under Section 51 of the Andhra Pradesh Co-operative Societies Act, 1964 (for short, 'the Act'), more or less on the same allegations. Interestingly, this time the petitioner has approached respondent No.1 and got the said order set aside, vide Memo No.8991/Coop.I/A1/2014, dt.19.01.2015.

The above facts and circumstances of the case, coupled with the fact that the respondents have not justified initiation of third successive preliminary inquiry, the

reasons which are referred to in order dt.9.10.2012 and the subsequent event of respondent No.1 itself nullifying the initiation of proceedings under Section 51 of the Act, are sufficient to restrain respondent No.2 from proceeding with the proposed inquiry impugned in this writ petition.

The writ petition is accordingly allowed as prayed for.

As a sequel to disposal of the writ petition, W.P.M.P. No.40220 of 2012 shall stand disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

23-7-2015

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