

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION No.17159 of 2014

ORDER:

This writ petition is filed challenging the inaction of respondents 1 to 6 in taking action against the 7th respondent in pursuance of a report of enquiry conducted by the 5th respondent by proceedings dated 28.11.2012.

Though the 7th respondent was served on 10.07.2014, none appeared on his behalf.

The counter-affidavit is filed on behalf of respondents 1 to 5 stating as follows:

"It is respectfully submitted that it has been brought to the notice of the District Cooperative Officer, Kurnool 4th respondent herein about the irregularities occurred in the society during the conduct of audit for the year 2010-2011. The 4th respondent after obtaining a report, directed to conduct an inquiry under section 51 of the APCS Act 1964 into the affairs of the society with reference to special audit report for the year 2010-2011. In pursuance to the orders of the 4th respondent, as stated above the Sub Divisional Cooperative Officer, Adoni 6th respondent herein conducted a detailed enquiry and submitted her enquiry report vide Rc.No.1/2012-AR dated 23.10.2012 fixing liability on the 7th respondent for the misappropriation of funds of the society. Basing on the findings of the 4th respondent, the 5th respondent requested the Sub Divisional Cooperative Officer, Adoni to cause the inquiry report placed before the General Body of the society vide letter No.1718/2010-NC, dated 5.1.2013. The society has not responded in this regard on the efforts made by the Sub Divisional Cooperative Officer, Adoni. Therefore, the 5th respondent pursuant to the Section 51 enquiry report initiated action under Section 60(1) of the APCS Act for surcharging the 7th respondent and issued a notice under Section 60(1) of the APCS Act calling upon the explanation of the delinquent, vide Rc.No.1718/2010-NC, dated 28.12.2013 and posted the case for hearing on 24.01.2014. The 7th respondent has requested time for submitting his explanation. Further considering the request dated 15.2.2014 made by the 7th

respondent, the case has been posted for hearing on 4.3.2014. But none has appeared on 4.3.2014. Though, in order to provide an opportunity to the 7th respondent, the case is posted on 27.3.2014 and 17.6.2014 as the 5th respondent herein was appointed as Assistant Election observer for Nandyal parliamentary constituency and the staff are also engaged in Elections to the Legislative Assembly and Parliamentary constituencies hearing were not conducted on 27.03.2014 and 17.6.2014 and posted to 28.06.2014. On the said date the 7th respondent has attended for the hearing and requested final opportunity for filing his explanation and the case is adjourned to 22.07.2014 for the hearing.

5. It is respectfully submitted that the 5th respondent had already initiated action under Section 60(1) of APCS Act 1964 basing on the Inquiry report on the misappropriation of funds of the society. Therefore, the contention of the petitioner that respondents are not initiating action against the 7th respondent is not correct or tenable. Appropriate orders in accordance with law would be passed in the enquiry which is already in progress.”

The learned counsel for the petitioner submits that even though the notice was issued under Section 60(1) of the Andhra Pradesh Cooperative Societies Act, way back on 28.12.2013, no action has been taken against the 7th respondent for the last two years.

In the circumstances, this writ petition is disposed of directing the 5th respondent to take further steps pursuant to the notice issued on 28.12.2013, within a period of three months from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

Pending miscellaneous petitions, if any, shall stand dismissed in consequence. No costs.

A.

RAMALINGESWARA RAO, J

Date: 08.10.2015

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