

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No. 11026 OF 2015

ORDER:

The petitioner herein, who worked as a Secretary of a Primary Agricultural Cooperative Society, seeks to challenge the show cause notice issued by the 3rd respondent Deputy Registrar of Cooperative Societies at Kovvur, West Godavari District, calling upon him to show cause as to why an order under sub-section (1) of Section 60 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short, 'the Act'), cannot be passed against him. The impugned show cause notice has also indicated that the Deputy Registrar of Cooperative Societies has also proposed to conduct a personal hearing on 04.04.2015 at 11.00 A.M. in his office and required the petitioner to avail the said opportunity. The impugned order is a mere show cause notice.

Ms. Shalini, learned counsel for the petitioner has raised two fundamental objections with regard to this order. The first is that the proviso incorporated under sub-section (1) of Section 60 of the Act has been breached by the Deputy Registrar. The second is in spite of the petitioner soliciting certain documents to offer his detailed explanation of defence, the same have not been furnished by the Deputy Registrar of Cooperative Societies. It was also urged that the Deputy Registrar of Cooperative Societies does not answer the description of 'Registrar' and hence, the impugned order is issued by an authority, which lacks the competence.

Section 60 of the Act dealt with the right of ordering surcharge where in the course of an audit carried out under Section 50 or any inquiry under Section 51 or an inspection carried out under Section 52 or Section 53 or upon winding up of a society, it appears that any person, who is or was entrusted with the organizational affairs or management of the society, and such a person has misappropriated or fraudulently retained any money or other property or has been found guilty of breach of trust in relation to the society or caused any deficiency in the assets of the society by breach of trust or willful negligence or has affected payment contrary to the provisions of the Act, rules or bye-laws, the Registrar himself, or any person specially authorized by him in this behalf, of his own motion or on the application of the committee, liquidator or any creditor or contributory, may inquire into the conduct

of such person and make an order requiring him to repay or restore the money or property or any part thereof with interest to the society.

Therefore, it is the Registrar of the Cooperative Societies or any other officer, who has been specially authorized by him in that behalf, who can exercise the power available under sub-section (1) of Section 60. Further, as per Section 2(n) of the Act, where the expression 'Registrar' has been defined in inclusive terms, any other person on whom all or any of the powers of the Registrar under this Act are conferred, also answers the description of 'Registrar' apart from the Registrar of the Cooperative Societies appointed by the State under sub-section (1) of Section 3 of the Act. Therefore, if the petitioner has entertained any doubt as to the authority of the 3rd respondent, either under the provisions of the Right to Information Act or by making a request to the 3rd respondent or for that matter, to the Commissioner-cum-Registrar of Cooperative Societies, necessary information about the specific authorization granted by the Registrar can be obtained. So far as the proviso to sub-section (1) of Section 60 is concerned, it specified that no order shall be passed against any person under sub-section (1) of Section 60, unless such a person has been given an opportunity of making his representation. The present show cause notice is precisely drawn for that purpose and hence, far from trying to act in breach of the proviso to sub-section (1) of Section 60, the impugned show cause notice dated 18.03.2015 is in conformity with the said proviso.

Sofar as the submission of the learned counsel for the petitioner that documents have not been furnished by the 3rd respondent so far is concerned, all I need to notice is that the petitioner, by his representation, dated 13.04.2015 read with the representation dated 10.04.2015, sought for the necessary information. The petitioner has not even allowed grass to grow under his feet but rushed to this Court. I am confident that the 3rd respondent will act strictly in accordance with law and would deal with the representations submitted by the petitioner on 10.04.2015 and 13.04.2015 in an appropriate manner and would pass necessary orders within a maximum period of 30 days from the date of receipt of a copy of this order.

Since I do not find any justifiable reason to admit this Writ Petition, it is dismissed. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

17th April 2015

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