

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

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WRIT PETITION Nos.25778, 22363 and 26225 of 2015

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W.P. No.25778 of 2015

Between:

B.Janardhan Rao

and

State of Andhra Pradesh
Rep. by its Principal Secretary to Government
Industries and Commerce and Textiles Department
Secretariat Building, Hyderabad
and others

.. Petitioner

.. Respondents

W.P. No.22363 of 2015

Between:

B.Visweswara Rao, and another

and

The State of Andhra Pradesh
Rep. by its Principal Secretary
Industries and Commerce (Textiles) Department
Secretariat Building, Hyderabad
and others

.. Petitioners

.. Respondents

W.P. No.26225 of 2015

Between:

M.Lakshmi Narasimha Rao

and

The State of Andhra Pradesh
Rep. by its Principal Secretary
Industries and Commerce (Textiles) Department
Secretariat Building, Hyderabad
and others

.. Petitioner

.. Respondents

DATE OF ORDER PRONOUNCED: 19.08.2015

SUBMITTED FOR APPROVAL:

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THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

1. Whether Reporters of Local newspapers

Yes/No

may be allowed to see the Judgments?

2. Whether the copies of judgment may be marked to Law Reporters/Journals? Yes/No

3. Whether their Ladyship/Lordship wish to see the fair copy of the Judgment? Yes/No

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION Nos.25778, 22363 and 26225 of 2015

COMMON ORDER:

The petitioners in all the three cases are members of Sri Jagadamba Handloom Silk Weavers Cooperative Society Limited, Desaipet Village, Vetapalem Mandal, Prakasam District. Since the term of the Managing Committee of the Society expired, the District Collector issued proceedings on 07.03.2015 for conducting of elections. The Election Officer was appointed for conducting elections. The voters list was also published, the election notification was issued on 10.04.2015 and the final voters list was published on the same day. The election notification indicates that 17.04.2015 was the date for filing of nominations. The nominations were filed and they were scrutinized on 18.04.2015 and the list of valid nominations was also published on 19.04.2015. Symbols were allotted on 19.04.2015 itself and the date of polling was mentioned as 25.04.2015. When the polling was about to take place, the first respondent issued proceedings dated 20.04.2015 staying elections. Challenging the same W.P. No.22363 of 2015 was filed, and this Court by order dated 20.07.2015 suspended the same. Thereafter, another member filed W.P.No.25778 of 2015 challenging the action of conducting the elections of the Managing Committee without deleting ineligible and illegally admitted 82 members in spite of Three Men Committee report dated 04.06.2015 and the petitioner's representation dated 14.04.2015. Another writ petition in W.P.No.26225 of 2015 was filed challenging the proceedings issued by the first

respondent on 20.04.2015.

The papers filed along with the Writ Petitions show that this Court in W.P. No.11491 of 2015, by order dated 30.04.2015, set aside the order passed on 16.04.2015 staying the elections on an earlier occasion and directing the continuance of election process from the stage where it was stopped. The hurdle for conducting of elections appears to be an order passed by the first respondent dated 20.04.2015 vide Memo No.8366/Tex.2/2015. Rule 22-C of the A.P. Cooperative Societies Rules, 1964, reads as under:

22-C. (1) Notwithstanding anything contained in these rules, the Government or the Election authority may direct the postponement of elections under one or more of the following circumstances:—

- (i) Break down of law and order affecting the peaceful and lawful conduct of elections.
- (ii) Any natural calamity that prevents the conduct of elections particularly, voters from participation in the election.
- (iii) Where there is reasonable apprehension that voters will not be allowed to vote frankly and freely.

(b) The postponement shall be done only by issue of an order which shall specify the grounds of postponement. After such postponement the election process shall be recommenced when the conditions become conducive for re-commencing of election, by issue of an order by the Authority that has postponed the elections. The process will re-commence from the stage at which it was obstructed or interrupted.

A perusal of the above rule makes it clear that the elections cannot be stayed on the ground of admission of members illegally without following the procedure, which is stated to have been the reason for staying the elections in the impugned order dated 20.04.2015.

As seen from the above, the final voters list was published on 10.04.2015, the nominations were also filed, they were scrutinized and the list of valid nominations was published on 19.04.2015. The elections, which were proposed to be held on 25.04.2015, could not be held due to the impugned proceedings of the first respondent dated 20.04.2015.

In view of the above Rule of the A.P. Cooperative Societies Rules, 1964, the impugned order passed by the first respondent is without jurisdiction and is accordingly set aside. The respondents 2 and 3 in W.P. No.22363 of 2015 are directed to continue the election process

from where it was stopped.

In the circumstances, W.P. Nos.22363 and 26225 of 2015 are allowed by setting aside the order of the first respondent dated 20.04.2015. In view of the disposal of the above writ petitions, W.P. No.25778 of 2015 is dismissed.

Miscellaneous petitions pending, if any, in these Writ Petitions shall stand closed.

A.RAMALINGESWARA RAO, J

Date: 19.08.2015

MVA

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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WRIT PETITION Nos.25778, 22363 and 26225 of 2015

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