

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

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WRIT PETITION No.36367 of 2015

ORDER:

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1. Petitioner is an Accountant of Tenali Cooperative Urban Bank Limited, Tenali. He assails order of the Registrar of Cooperative Societies dated 16.10.2015 passed under Section 59(1) of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act') and consequential order of the Chairperson of Tenali Cooperative Urban Bank Limited dated 30.10.2015.

2. It appears, there were some allegations of malfeasance against the Secretary and the Accountant of Tenali Cooperative Urban Bank Limited. Inspection Officer was appointed. He inspected the Office of the respondent bank and submitted his report. The Inspection Report seems to have suggested that there are illegalities in the functioning of the respondent bank and

prima facie, fixed the responsibility on Secretary and Accountant of the respondent bank. On examination of the Inspection Report, the Registrar, in exercise of power vested under Section 59(1) of the Act directed Managing Committee of the respondent bank to place the Secretary and the petitioner under suspension and in consequence to the same, orders were passed on 30.10.2015 suspending them.

3. Learned counsel for the petitioner contends that in accordance with the bye-laws governing the respondent bank, the competent authority entitled to place the employee under suspension is the Sub-Committee of the respondent bank. Whereas the order of suspension is passed by the

Person-in-Charge and therefore, the same is illegal and learned counsel also made extensive submissions regarding the desirability of placing the petitioner under suspension.

4. As seen from the order dated 16.10.2015, it is passed in exercise of powers vested in the Registrar under Section 59(1) of the Act. Section 59 reads as under:

“59. Suspension of officer or servant of society:- (1) Where in the course of an audit under Section 50 or an inquiry under Section 51 or an inspection under Section 52 or Section 53, it is brought to the notice of the Registrar that a paid officer or servant of a society has committed or has been otherwise responsible for misappropriation, breach of trust or other offence, in relation to the society, the Registrar may, if in his opinion there is *prima facie* evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interests of the society, direct the committee pending the investigation and disposal of the matter, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him, but not retrospectively.

(2) On receipt of such direction, the committee shall, notwithstanding any provision to the contrary in the bye-laws, place or cause to be placed the paid officer or servant under suspension forthwith.

(3) The Registrar may direct the committee to extend, from time to time, the period of suspension and the paid officer or servant suspended shall not be reinstated except with the previous sanction of the Registrar.”

5. Reading of the above provision makes it clear that the Registrar is competent to direct the Committee of the Urban Bank to place an employee under suspension on the alleged illegalities committed by an employee. In terms of sub-section (2) of Section 59 of the Act, on receipt of such direction by the Registrar, the Committee is bound to pass orders placing the employee under suspension notwithstanding any contrary provision in the bye-laws. In view of the clear provision contained in Section 59, there is no merit in the contention urged by the learned counsel for the petitioner that in terms of bye-law No.11, the competent authority is entitled to place the employee under suspension. It is also appropriate to notice that on completion of tenure of the governing members of the respondent bank, the committee of Persons-in-Charge was constituted and orders to the extent were passed on

23.10.2015. In terms of the said proceedings, the governing Committee is now Persons-in-Charge. Therefore, the Persons-in-Charge is competent to take consequential steps in pursuance of the directions issued by the Registrar. The Persons-in-Charge passed unanimous resolution on 26.10.2015 to take further action as per orders of the Registrar of Co-operative Societies. The proceedings dated 30.10.2015 are issued to give effect to the resolution of the Persons-in-Charge.

6. As seen from the proceedings issued by the Registrar, the Registrar has considered the inspection report and having found *prima facie* seriousness of the allegations, suspension is resorted to. Therefore, it cannot be said that the Registrar had acted arbitrarily and in discriminatory manner in directing the suspension of the petitioner. The suspension is resorted to for smooth conducting of enquiry and also when serious allegations are made against the employee, in public interest, suspension from service can be resorted to. I therefore see no error in the decision of the Registrar in directing suspension of the petitioner and the consequential decision of the Persons-in-Charge in compliance of the directions issued by the Registrar under Section 59(1) of the Act warranting interference by this Court.

The Writ Petition fails and is accordingly dismissed.

Consequently, pending miscellaneous petitions, if any shall also stand closed. No order as to costs.

P. NAVEEN RAO, J

12th NOVEMBER, 2015.

Note: issue c.c. in one week.

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