

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.23232 of 2015

ORDER:

The petitioners are the President and Secretary of the Cherukumilli Primary Agricultural Cooperative Society Limited, Cherukumilli, Akiveedu Mandal, West Godavari District. In respect of the affairs of the Society, an enquiry was ordered on 05.01.2015 and when the enquiry was in progress, it appears that the Executive Committee as well as the General Body met on 27.06.2015 and took some decisions increasing the credit limit. In those circumstances, the third respondent issued a letter on 07.07.2015 asking the petitioners to submit their explanation within seven days. Challenging the same, the present writ petition is filed.

Counter affidavit is filed stating that the Enquiry Officer, who was appointed on 05.01.2015, completed his enquiry. At that stage a complaint was received by the third respondent stating that the Managing Committee of the Society convened the General Body Meeting of the Society on 27.06.2015 at I-Bhimavaram though the report of the enquiry was not received and efforts were made to secure the signatures of the members by sending the Minutes book to their houses as there was no quorum for the said meeting. In those circumstances only the impugned notice was issued by invoking the provisions of Section 55-A(5) of the A.P. Cooperative Societies Act, 1964 (for short, 'the Act') read with Section 79 of the Act.

Section 55-A(5) of the Act deals with maintenance of accounts whereas Section 79 of the Act deals with punishment for corrupt practices. The specific power of the third respondent to issue the show cause notice is not mentioned in the counter affidavit. If the third respondent got any doubt with regard to proper exercise of

rights of the Society, the said matter can be a matter for enquiry under Section 51 of the Act. It is clear from the counter affidavit filed by the third respondent that the enquiry was completed. However, since the third respondent expressed a doubt with regard to the power of the Society to pass a resolution on 27.06.2015 enhancing the credit limit, the Enquiry Officer, who was appointed on 05.01.2015, can be asked to go into that aspect of the matter also and include the same in his Enquiry Report.

In the circumstances, the second respondent is given liberty to include a further item, pursuant to the notice issued by the third respondent on 07.07.2015, as an additional item of reference to the Enquiry Officer, who was already appointed to enquire into, and include the same in his Enquiry Report, but the petitioners cannot be asked to submit their explanation as directed by the third respondent on 07.07.2015.

The Writ Petition is accordingly allowed to the extent as indicated above. There shall be no order as to costs.

Miscellaneous Petitions, if any, pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO, J

09.09.2015

MVA

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