

**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 No.29037 of 2015

Between:

Alapati Narendra Prasad
And others.

....Petitioners

and

The State of A.P.,
Rep.by its Principal Secretary,
Cooperation Department,
Secretariat, Hyderabad,
And others.

....Respondents

DATE OF JUDGMENT PRONOUNCED: 10.09.2015

SUBMITTED FOR APPROVAL:

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

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| 1. | Whether Reporters of Local newspapers may be allowed to see the Judgments? | Yes/No |
| 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

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WRIT PETITION No.29037 of 2015

ORDER:

The petitioners are Directors of the Mortha Primary Agricultural Cooperative Society, Mortha, West Godavari District. They were elected as members of the Managing Committee on 31.01.2013. The society is due of amounts to the financing bank - the District Cooperative Central Bank Limited, West Godavari District at Eluru. While so, an inquiry was ordered in respect of the affairs of the society under Section

51 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short, the Act), on 20.10.2014, and the inquiry report was submitted. Based on the said report, the fourth respondent issued a notice on 23.05.2015 under Section 34(1) of the Act to show cause why supersession proceedings should not be issued. Challenging the same, W.P.No.18281 of 2015 was filed. At the time consideration of the said Writ Petition, it was informed that a final order was passed on 22.06.2015. But, it came to light that the said final order was passed without affording an opportunity of hearing to the petitioners. This Court, therefore, set aside the said order by order dated 23.06.2015, and the fourth respondent was directed to make available the record for perusal of the petitioners within one week from the date of receipt of the said order and the petitioners were given liberty to file their explanation within one week thereafter. The fourth respondent was also directed to pass an order in accordance with law, within a period of fifteen days thereafter. It was also made clear that if the petitioners failed to file any explanation even after perusal of the record by them, it would be open to the fourth respondent to pass appropriate orders. Thereafter, the fourth respondent passed an order on 22.08.2015 superseding the Managing Committee of the society. Challenging the same, the present Writ Petition is filed.

When the learned Senior Counsel Sri P.Gangaiah Naidu, appearing for the petitioners, pointed out that the impugned order was passed contrary to Section 34(6) of the Act, the case was adjourned from 08.09.2015 to today. Today, the learned Government Pleader produced the record, which showed that a letter was addressed by the fourth respondent on 21.05.2015 to the District Cooperative Central Bank asking for its opinion with regard to the proposed action under Section 34 of the Act. The District Cooperative Central Bank did not express any opinion, but in the impugned order, the fourth respondent construed that the District Cooperative Central Bank Limited, Eluru, was not having any objection for the proposed action under Section 34 of the Act and proceeded to supersede the Managing Committee.

Section 34(6) of the Act reads as follows:

“34(6) Where a society is indebted to any financing bank, the Registrar shall, before taking any action under sub-section (1) in respect of that society, consult the financing bank.”

In view of the clear provision, it cannot be construed as intimation to the financing bank, but there should be consultation before taking action under Section 34 of the Act. When faced with this situation, learned Government Pleader fairly submitted that the impugned order, dated 22.08.2015, can be set aside by giving an opportunity to the fourth respondent to pass appropriate order in accordance with law after complying with the procedure envisaged in Section 34(6) of the Act.

In view of the consent, the impugned order dated 22.08.2015 is set aside, and the Writ Petition is allowed at the admission stage. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

10.09.2015
vs