

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Contempt Case No.1759 of 2015

Order:

This Contempt Case is filed alleging non-implementation of the order in W.P.No.13931 of 2015 dated 16.06.2015.

2. This Court passed the above order and the order speaks for itself.

“The short point raised in the present Writ Petition is for conducting elections to the fourth respondent Society in respect of which the elections took place only once during the last 18 years. The petitioner states that from 1969 onwards, during 40 years, the elections were conducted only on three occasions. Out of 9 Societies, 7 Societies were already wound up and the fourth respondent Society is one of the two surviving Societies. Pursuant to the orders of this Court in W.P.No.22558 of 2002 dated 24.03.2004, elections were conducted in the year 2007 and the term of the Committee expired in 2012. Thereafter, person-in-charge committees are being appointed from time to time. The present person-in-charge was appointed on 07.01.2015 and his term is coming to an end on 06.07.2015.

Since this is an admitted case of non-conducting of elections even after expiry of original term of the body in the year 2012, this Court thinks that this is a fit case where a direction can be issued to the second respondent to conduct elections to the fourth respondent Society expeditiously and complete the same within a period of six months from the date of receipt of a copy of this order. It is needless to observe that the second respondent can take appropriate action for appointment of a person-in-charge after the expiry of the term of the present person-in-charge in order to continue the election process.”

3. After passing the order as aforesaid on 16.06.2015, proposals were submitted by the District Cooperative Officer, Karimnagar on 27.06.2015 to the Commissioner and Registrar of Co-operative Societies, Hyderabad, seeking extension of the term of person-in-charge committee, wherein it was specifically stated that the process for conducting elections would take six months, the term of the present person-in-charge is expiring by 04.07.2015 and hence the term may be extended for a further period of

six months with effect from 05.07.2015 or till the elections are conducted so as to enable him to initiate further process for conduct of elections to the society. In the affidavit filed in support of the Contempt Case it was alleged that though this Court directed the respondents to take appropriate action for appointment of person-in-charge in order to continue the election process and though an official can be appointed, the members of body of persons-in-charge whose term expired on 04.07.2015 were continued for a period of six months or till elections are conducted by issuing G.O.Rt.No.Nil dated 21.07.2015. Hence the issuance of G.O.Rt.No.Nil dated 21.07.2015 is against the spirit of the orders passed by this Court on 16.06.2015 and it amounts to willful violation of the orders of the Court.

4. A notice was ordered on 30.10.2015 in the Contempt Case. The case was admitted on 06.01.2016 against the first respondent. A counter affidavit was filed by the first respondent stating that the copy of the order in the Writ Petition was received on 03.07.2015 and even before receipt of the said order, the Government Pleader informed with regard to direction to conduct elections within six months but he omitted to make a mention with regard to extension of term of present unofficial person-in-charge committee. Since the proposal was received seeking extension before receipt of the orders of the Court, the proposal was processed and the term of the existing person-in-charge committee was extended through G.O.Rt.No.340 dated 21.07.2015. He admitted that the proposals should have been stopped after receipt of the orders, but 'somehow' the proposals were finalised and the term of the existing person-in-charge was extended. The extended term would expire by 04.01.2016. He stated that the mistake was realised and he tenders unconditional apology

for not implementing the order. He further stated that the extension was not done either to circumvent or over reach the orders of this Court and such mistake would not be repeated. He sought pardon for committing the mistake in extending the term of the existing PIC. With regard to conduct of elections within six months, it was stated that the society is facing financial crunch, an amount of Rs.1.16 Crores was required to conduct the elections and the voters list has to be enumerated. In view of the same, the elections could not be conducted within the period of six months and sought extension of time up to April 2016 for completion of the elections.

5. The second respondent also filed a counter affidavit stating that she was unnecessarily impleaded since she has not taken any decision or dealt with the file concerning the extension of term of the fourth respondent society. She worked for a brief period from 21.07.2015 to 12.08.2015 as Director of Cooperation and Registrar of Cooperative Societies.

6. The District Cooperative Officer, on the directions of this Court, filed a counter affidavit stating that the fourth respondent in the Writ Petition moved a proposal for extension of the term of the existing person-in-charge on 27.06.2015 and he endorsed the same after 06.07.2015. After receipt of copy of the order nothing was done at his end. However, he apologised for having endorsed the proposal put up by the fourth respondent on 27.06.2015 and stated that he was guided by the letter issued by the Government Pleader on 18.06.2015 which was forwarded to him.

7. On impleading the District Cooperative Officer, Karimnagar, he filed a counter affidavit stating that the letter of the Government Pleader dated 18.06.2015 reached him on 25.06.2015 and after receipt of the said letter steps were taken for conducting the elections. It was stated that efforts were made to conduct the elections after issuance of orders on 16.06.2015 and the respondents 2 and 3 were pressurising the fourth respondent to send proposals for conducting the elections within the stipulated period of six months time. The fourth respondent furnished the progress and preparedness on 23.12.2015. Thereafter, the first respondent appointed the Joint Collector as official person-in-charge for the fourth respondent society by G.O.Rt.No.4 dated 08.01.2016 for a further period of six months with effect from 04.01.2016 and an election notification was issued on 09.01.2016. The elections were conducted on 28.02.2016 and the results were declared on 02.03.2016. Another Writ Petition was filed in W.P.No.5290 of 2016 and the results were made subject to the further orders in the said Writ Petition dated 19.02.2016.

8. A perusal of the correspondence indicated that the order of this Court could not be complied with due to misunderstanding among the respondents. The origin of misunderstanding started with the letter of the learned Government Pleader who merely informed with regard to conduct of elections, but did not state anything with regard to appointment of persons-in-charge. The letter of the learned Government Pleader dated 18.06.2015 reads as follows.

“It is to inform you that on 16.06.2015 after hearing the matter elaborately the Hon’ble High Court has considered the arguments of the Government and granted six months time for conducting elections from the date of the order.”

In the meanwhile, the process for continuance of the existing person-in-charge went on and committee of persons-in-charge were appointed contrary to the intention of the Court. The proposal for conduct of elections should emanate from the society and the society has not taken any steps till December 2015. The society was not impleaded in the present Contempt Case and the Contempt Case filed on the assumption that the respondents 1 and 2 violated the orders of this Court. But, the record shows otherwise. The Contempt Case is focused on appointment of person-in-charge, whereas this Court was concerned with the conduct of elections. So far as the appointment of persons-in-charge is concerned, the letter of the learned Government Pleader contributed to the misunderstanding and with regard to conduct of elections, the proposal from the society did not emanate and steps were taken only when the seriousness was realised. In the meantime, the six months time imposed by this Court also elapsed, but however, the elections were ultimately held on 28.02.2016 and results were declared on 02.03.2016.

9. In view of the above facts, this Court feels that there is no deliberate intention on the part of the respondents to violate the orders of this Court and, accordingly, the Contempt Case is closed. There shall be no order as to costs.

10. As a sequel thereto, the miscellaneous petitions, if any, pending in this Contempt Case shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 17th September 2016
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