

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION NO.12425 of 2015

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Between:

Oleti Varahala Raju

PETITIONER

AND

1. State of Andhra Pradesh, rep. by its Principal Secretary,
Fisheries Department, A.P. Secretariat, Hyderabad, and others.

RESPONDENTS

ORDER:

Heard learned counsel for the petitioner and learned Government Pleader for Fisheries for respondents 1 to 4 and Sri M. Prudhvi Raj, learned counsel appearing for 5th respondent, and with their consent the main writ petition itself is taken up for final hearing and disposed of at the interlocutory stage.

This writ petition is filed questioning the notice dated 13.04.2015 issued by the 3rd respondent fixing 28.04.2015 as the date for enquiry with regard to the requisition received in terms of Section 34A of the A.P. Cooperative Societies Act, 1964, (for short 'the Act').

The case of the petitioner is that he was elected as President of the 4th respondent-Fishermen Cooperative Society Ltd., Mogalthur, West Godavari District, on 15.09.2012. He received notice dated 13.04.2015 issued under Section 34A of the Act, alleging that one Sri Moka Mutyala Raju, Secretary and 5 Managing Committee Members of the society have submitted a representation expressing no confidence against the petitioner, and therefore, he intend to convene a meeting on 28.04.2015 at 11.00 a.m. The grievance of the petitioner is that the notice intimating convening of meeting was served on him on 23.04.2015, but he has not received any notice to make the motion of no confidence by the members. Challenging the same, the present writ petition is filed.

Learned counsel for the petitioner submitted that the notice dated 13.04.2015 sent by the 3rd respondent has been received by the petitioner only on 23.04.2015. He also submits that issuance of notice itself is defective on account of the fact that the mandatory condition as envisaged under Section 34-A (3) of the Act had not been complied with i.e., the meeting for consideration of motion shall not be later than

thirty days from the date on which the notice under sub-section (2) was delivered to him and he shall give to the members notice of not less than fifteen clear days of such meeting in such manner as may be prescribed.

When the matter was came up for admission on 01.05.2015, considering the submission made by the learned counsel for the petitioner that though the meeting was proposed to be held on 28.04.2015, the same has not been held and no date is given for next date of meeting, granted interim stay of the said notice.

Now a vacate stay petition in W.V.M.P.No.429 of 2016 has been filed by respondents 1 to 4 along with counter affidavit. In the counter affidavit the 2nd respondent admitted that the notice has been served on the petitioner on 23.04.2015 and the proposed meeting to be conducted on 28.04.2015 has not been conducted. In that view of the matter, the notice dated 13.04.2015 proposing to conduct meeting on 28.04.2015 has become redundant.

In view of the same, as there is no 15 days clear notice by the members, in the facts of the present case, the impugned notice is liable to be set aside and the same is accordingly set aside. It is open for the respondents to conduct the meeting as and when requisition is received by them by duly following the procedure prescribed by law.

Accordingly the writ petition is allowed. As a sequel, pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

CHALLA KODANDA RAM, J.

18th February, 2016
Js.