

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.17285 OF 2016

ORDER:

The writ petition is filed challenging the action of the respondent No.4 in trying to catch the fish with the help of un-connected members of the 5th respondent-Society and distribute the sale proceeds to them.

It is the case of the petitioner that he is the member of the 5th respondent. The President of the said society on his being removed under no confidence motion approached this Court by filing a Writ Petition No.6106 of 2016 and this Court granted an interim stay of the proceedings on 25.2.2016 dislodging as President and by virtue of the same President is entitled to continue as the head of the 5th respondent society. Now by virtue of the order dated 28.04.2016 of this Court in W.P.No.14959 of 2016, the 4th respondent had permitted the 5th respondent to carry on the fishing operations. It is the apprehension of the petitioner that the proceeds of the fishing operations would not be properly accounted for and credited to the account of the 5th respondent-society. It is also the contention of the petitioner that the 4th respondent is in collusion with some of the members of the 5th respondent and is likely to mis-utilize the fishing proceeds of the 5th respondent-society. Hence, the present writ petition.

Learned counsel appearing for the 5th respondent-society opposes the writ petition. He further submits that there is no basis for the petitioners to approach this Court and make allegations. He also submits that it is only on account of the orders passed by this Court on 28.04.2016 in W.P.No.14959 of 2016, the 4th respondent permitted the fishing operations to be carried out.

Learned Government Pleader appearing on behalf of the official respondents while opposing the writ petition submits that there is no basis for the apprehension of the petitioner and at any rate he seeks time to get instructions.

Having considered the respective submissions, it is not in dispute that the 5th respondent-society is having represented by its Secretary and there is a person officiating in the post of the Secretary, petitioner is only an ordinary member and by himself does not have any say independently with respect to

the affairs of the 5th respondent-society. As the fishing operations have already been directed to be carried out and necessary permissions have been issued by the 4th respondent, there cannot be any stay of fishing operations to be carried out. However, one of the apprehensions which is being expressed by the petitioner is that the 4th respondent in collusion with the third parties unconnected with the 5th respondent-society is likely to mis-utilize the funds by not accounting for the proceeds of the fishing operations. There is no material before this Court to support such allegations except the allegations that the President has been kept away from the affairs of the society on account of no confidence motion. However, considering the fact that this Court had made certain interim orders in W.P.No.6106 of 2016, it may be open for the President to participate in the affairs of the Society. The said individual is not before this Court and as such there is no requirement of this Court expressing any opinion on that. In those circumstances, when the relief of the nature cannot be granted in the writ petition, the writ petition is liable to be dismissed.

Accordingly, the writ petition is dismissed. However, it is needless to mention that sale proceeds that may be derived from the fishing operations, the 5th respondent-society statutorily is required to account for the same. No order as to costs.

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

CHALLA KODANDA RAM,J

Date:03.06.2016.
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HON’BLE SRI JUSTICE CHALLA KODANDA RAM

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