

*** THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM**

WRIT PETITION No.20665 of 2016

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%Dated 12.07.2016

#B.Vijay Kumar Reddy

... Petitioner

Vs.

\$The State of Telangana
& others

... Respondents

!Counsel for Petitioner : Sri Shaik Ahmed Patel

^Counsel for Respondents : Sri T.Sarath
Special Government

Pleader

For Telangana

<GIST:

>HEAD NOTE:

? Cases referred :

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.20665 of 2016

ORDER:

Memo dated 22.06.2016, issued by respondent No.1, is challenged on the ground that it is ultra vires.

Facts, in brief, are as follows:

Petitioner is the President of Primary Agricultural Cooperative Society Limited, Nasurullabad (PACS). On the requisition dated 04.06.2016 made by some of the members of the Society to take up the motion of no confidence against the petitioner, the Deputy Registrar of Cooperative Societies, Bodhan – respondent No.3, by notice dated 07.06.2016, decided to convene the meeting of no confidence motion against the petitioner on 24.06.2016. Against the said order, the petitioner moved Telangana Cooperative Tribunal, Hyderabad, by filing an appeal vide C.T.A.No.30 of 2016 under Section 76 of the Cooperative Societies Act, 1964 (for short 'the Act'). The Tribunal adjourned the matter to 24.06.2016, the day on which no confidence motion was to be taken up. Along with the appeal, the petitioner filed I.A.No.68 of 2016 to stay the motion of no confidence against the petitioner. The impugned memo dated 22.06.2016 was issued by respondent No.1 staying the motion of no confidence scheduled to be held on 24.06.2016. The petitioner, having the strength of members to face no confidence motion, withdrew the I.A. filed before the Tribunal. The Writ Petition is filed questioning the impugned memo dated 22.06.2016 on the ground that respondent No.1 did not have jurisdiction in matters relating to no confidence motion as the same is governed by the provisions of the Cooperative Societies Act, and, in particular, Section 34(a) of the Act.

It is the submission of the learned counsel for the

petitioner that whether at the instance of the persons, who have moved the Deputy Registrar seeking to dislodge the petitioner by moving no confidence motion, the Secretary for Minister for Cooperation had issued the impugned memo without there being any jurisdiction.

Counter affidavit has been filed by the Deputy Registrar denying the allegations in the Writ Petition, including the allegation that respondent No.1 is not competent to pass the impugned memo.

Sri T.Sarath, learned Special Government Pleader appearing on behalf of the office of learned Advocate General, submits that the impugned memo of respondent No.1 cannot be found fault with as it was passed taking into consideration the representation made by the members of the Society to the Honourable Minister that one of the member viz. Chunchu Venkaiah was kidnapped by unknown persons, and further another Director, Sri Rama Goud, was unwell; and if the motion of no confidence was allowed to be convened on 24.06.2016, there is possibility of no confidence motion being defeated and, as such, the Honourable Minister directed respondent No.1 to grant stay. Learned counsel further elaborates that the petitioner's conduct is blameworthy as he initially approached the Tribunal by filing appeal questioning the motion of no confidence and, thereafter, withdrew the I.A. having won over some of the members to his side and expressed his readiness to face the motion of no confidence and, in those circumstances, grant of stay by respondent No.1 cannot be found fault with. However, learned Special Government Pleader is candid enough in submitting that neither respondent No.1 nor the Honourable Minister is conferred with power to pass such

an order.

Having considered the respective submissions, the entire episode only reflects sad state of affairs and the knowledge of officers, who are guiding representatives holding posts of Ministers. Once it is admitted that either the Honourable Minister or respondent No.1 has no manner of right with respect to issues governing no confidence motion, interference with the matters covered under the statute, to say the least, would be ultra vires of power of either respondent No.1 or the Honourable Minister. As a matter of fact, interference of Ministers where they are not conferred with jurisdiction under the statute apart from encouraging disgruntled elements or the people, who have access with Ministers, would also put enormous pressure on Courts as such acts would be challenged as ultra vires.

Arguments of learned Special Government Pleader that passing of the orders by the Minister are on account of ignorance or wrong guidance cannot be accepted and countenanced as the Minister holding a cabinet rank either deemed to be aware of or to be made aware of the settled legal principles, more so with respect to jurisdiction and scope of power which he can exercise. Even assuming that the Minister is not aware of, respondent No.1, being the Principal Secretary, ought to be aware of and is duty bound to educate the public representative of the scope of power which he exercises and ought to exercise. There cannot be any ignorance especially by administrative officers who are manning the State and, in whose hands, the entire affairs of the State and lives of people are placed by entrusting governance.

The impugned memo dated 22.06.2016 is ultra vires as it

is passed without authority and the conduct of petitioner, by no stretch of imagination, can be said to be blameworthy for the reason that what all he has done is, admittedly, he exercised right of appeal under Section 76 of the Act. Merely because, an individual aggrieved by an act approaches the forum constituted under the statute which has jurisdiction to redress the grievance, such conduct cannot be said to be blameworthy. On the other hand, blameworthy conduct is of respondent No.1 or the one who has directed to pass such an order without jurisdiction.

The Writ petition is allowed with costs. Respondent No.1 shall pay costs of Rs.10,000/- (Rupees Ten Thousand Only) to the Registrar (Judicial), High Court of Judicature at Hyderabad for the State of Telangana and State of Andhra Pradesh. Needless to mention that no confidence motion stayed by the impugned memo shall proceed from the stage at which it was stopped.

Miscellaneous Petition pending, if any, shall also stand disposed of. However, in the circumstances, without costs.

CHALLA KODANDA RAM, J

Dt:12.07.2016

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