

IN THE HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

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HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO

-
WRIT PETITION Nos. 2124 of 2005 and 24149 and 18752 of 2004

Date: 02.03.2016

W.P.No.2124 of 2005

Between:

Sadhu Rama Rao & others.

... Petitioners

And

The State of A.P., rep., by its Secretary,
Cooperate Department,
Hyderabad & others.

... Respondents

**HON'BLE THE ACTING CHIEF JUSTICE DILIP B. BHOSALE
AND
HON'BLE SRI JUSTICE P. NAVEEN RAO**

WRIT PETITION Nos. 2124 of 2005 and 24149 and 18752 of 2004

–

ORDER: (per the Hon'ble the Acting Chief Justice Dilip B. Bhosale)

Heard the learned counsel for the parties.

In these three writ petitions, though the petitioners are different, the respondents are common and the prayers made are similar. The prayer made in W.P.No.2124 of 2005, according to the learned counsel for the parties, is exhaustive and covers the prayers made in other writ petitions also. The prayer made in W.P.No.2124 of 2005 reads thus:

“For the reasons stated in the accompanying affidavit, petitioners prays that the Hon'ble Court may be pleased to issue a writ, order, or direction, more particularly one in the nature of a writ of Mandamus, declaring, that sub-sections (3) to (8) and explanation (h) of Section 12-A of the A.P.C.S. Act, 1964 are null, void and ultra vires the constitution, as they are illegal, arbitrary void and violative of the fundamental rights and the principles of natural justice, and consequently to set-aside all the proceedings that took place under the aforesaid challenged provisions of law, such as the acceptance/of tender/offer of the 5th respondent the execution of the agreement in favour of the 5th respondent for transferring the assets and liabilities of the 4th respondent, the transfer and handing over of the assets of the 4th respondent to the 5th respondent; to direct the respondents 1 to 5 to restore status quo ante as stood prior to 2.1.2004 regarding the assets of the 4th respondent, to direct the respondents 1 to 4 not to execute any sale deed in favour of the 5th respondent and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

It is not in dispute that the challenge raised in these petitions to sub-sections (3) to (8) and explanation (h) of Section 12-A of the Andhra Pradesh Cooperative Societies Act, 1964 was also raised in *G.V. Jayachandra Chowdary and others vs. Government of Andhra Pradesh and others* - W.P.No.20572 of 2003 and this Court vide judgment and order, dated 30.04.2004, upheld the challenge. The said judgment is reported in 2004 (3) ALD 474 (D.B.).

In view thereof, Sri M.V. Durga Prasad, learned counsel for the petitioners, submits that W.P.No.2124 of 2005 deserves to be allowed in terms of the prayer made therein. This submission of learned counsel for the petitioners has not been disputed by learned counsel for the respondents including the contesting respondent No.5 (auction purchaser).

Sri Vedula Venkataramana, learned Senior Counsel for respondent No.5, however, submitted that respondent No.5 may be given liberty to approach the Government by way of representation seeking refund of the amount deposited by them towards the consideration and also to make other claims, if any.

Learned counsel for the petitioners have not objected for allowing respondent No.5 to make representation, as aforementioned. They, however, submitted that if any such representation is made, the concerned authority may be directed to consider the same strictly in accordance with law.

In the circumstances, we dispose of these writ petitions by the following order:

“W.P.No.2124 of 2005 is allowed in terms of the prayer made therein. In view thereof and in view of the fact that there is no dispute that the prayers in other two petitions are also covered

by the prayer made in W.P.No.2124 of 2005, those two writ petitions are also disposed of in terms thereof. It is open to respondent No.5 – auction purchaser to make a representation, as aforementioned, to the concerned authority of the Government within a period of four weeks from today. The concerned authority shall consider and decide the representation as expeditiously as possible and preferably within a period of four months from the date of receipt of the representation. It is needless to mention that the concerned authority shall decide the representation on merits and strictly in accordance with law. While granting the liberty we shall not be understood to have examined respondent No.5 – auction purchaser's right in making representation, as aforementioned."

Miscellaneous petitions, if any, shall also stand disposed of. There shall be no order as to costs.

DILIP B.BHOSALE, ACJ

P. NAVEEN

RAO, J

Date: 02.03.2016

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