

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 15153 of 2010

Order:

It is the case of the petitioner Society that when certain allegations were made with regard to functioning of the petitioner Society in the year 2009, the second respondent addressed a letter to the third respondent on 24.06.2009 for conducting an enquiry under Section 51 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') and submit a report. It appears that the third respondent issued summons to the Managing Committee of the petitioner Society on 27.06.2009 to attend for the enquiry under Section 51 of the Act. After conducting enquiry, a report was submitted by the third respondent. Thereafter, when the first respondent issued orders on 12.04.2010 appointing the third respondent as Enquiry Officer under Section 51 of the Act for conducting an enquiry into the constitution, working and financial conditions of the petitioner Society and when the third respondent issued consequential summons on 24.04.2010 directing the petitioner Society to produce certain registers, the present Writ Petition was filed.

This Court, by order dated 30.06.2010, granted interim stay on the ground that the proceedings dated 12.04.2010 and 24.04.2010 amount to holding successive enquiries as the enquiry conducted in June 2009 was also pertaining to the very same issues. Seeking vacation of the said order, W.V.M.P.No.1082 of 2012 is filed along with counter affidavit. In the counter affidavit it is stated that the election to the Managing Committee of the petitioner Society was held on 18.10.2009 and the term of the committee would expire by 17.10.2014. While so, some of the members of the petitioner Society filed a petition on 18.06.2009 alleging

certain irregularities in the functioning of the Managing Committee of the petitioner Society. On the said complaint the first respondent requested the second respondent to conduct an enquiry and submit a report. The second respondent in turn entrusted the task to the third respondent to conduct an enquiry by letter dated 24.06.2009. The third respondent conducted an enquiry by issuing summons to the petitioner Society instead of issuing a notice. It is also stated that the enquiry conducted by the third respondent is different from ordering enquiry under Section 51 of the Act. The report was submitted by the third respondent on 17.08.2009 and basing on the same the Divisional Cooperative Officer addressed a letter to the first respondent on 19.08.2009 for arranging departmental audit of the accounts of the petitioner Society. On the recommendation of the second respondent the first respondent ordered for an enquiry under Section 51 of the Act by proceedings dated 09.11.2009 and authorised the Sub-Divisional Cooperative Officer to conduct an enquiry which was subsequently modified vide order dated 12.04.2010. The earlier enquiry conducted by the Sub-Divisional Cooperative Officer was only a preliminary enquiry pursuant to the complaint dated 18.06.2009, whereas the proposed enquiry is a regular enquiry. When the Sub-Divisional Cooperative Officer issued a notice to the petitioner to submit the registers, the present Writ Petition was filed.

The Writ Petition itself was based on misconception and misunderstanding. I have carefully perused the order passed by the second respondent on 24.06.2009 which was in Telugu and it directed the third respondent to submit a report on the complaint received from the members of the petitioner Society on 18.06.2009 in order to form an opinion for conducting enquiry under Section 51 of the Act. This is an

inter departmental correspondence from the second respondent to the third respondent, but the third respondent appears to have issued summons and conducted enquiry and submitted a report to the second respondent. Thereafter, the second respondent submitted a report to the first respondent who issued proceedings on 12.04.2010 in modification of the proceedings dated 09.11.2009 appointing the Enquiry Officer to conduct an enquiry under Section 51 of the Act in respect of the affairs of the petitioner Society and the third respondent issued summons on 24.04.2010 directing the petitioner Society to submit certain registers.

Learned counsel for the petitioner Society submits that the earlier enquiry conducted pursuant to the order of the second respondent dated 24.06.2009 itself was an enquiry under Section 51 of the Act and there cannot be any further enquiry pursuant to the orders of the first respondent. I am not in agreement with the said submission made by the learned counsel for the petitioner Society, as I have carefully perused the Telugu version of the proceedings dated 24.06.2009 which merely calls for a report from the third respondent in order to examine the possibility for ordering enquiry under Section 51 of the Act. At no point of time the third respondent was directed to conduct an enquiry under Section 51 of the Act. Now, the first respondent, being the competent authority appointed the third respondent as Enquiry Officer and in pursuance of the same, the third respondent issued the proceedings to the petitioner Society for production of registers and this Court sees no illegality in such action. Learned counsel for the petitioner also submits that there is no provision for preliminary enquiry in the A.P. Cooperative Societies Act and the stand taken by the respondents is untenable. In view of the proceedings issued by the second respondent on 24.06.2009, I am of the opinion that the

second respondent is entitled to call for a report from his subordinate in order to satisfy himself with regard to further action to be taken on the complaint received from the members of the petitioner Society. Though the learned counsel for the petitioner sought to place reliance on a decision reported in *Mohinder Singh Gill v. Chief Election Commissioner, New Delhi*¹, the ratio laid down in the said case is not applicable to the facts of the present case. In the circumstances, the Writ Petition is devoid of merit and the same is liable to be dismissed.

The writ Petition is, accordingly, dismissed. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

Date: 29.12.2016
Nsr

A. RAMALINGESWARA RAO, J

¹ AIR 1978 SC 851