

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos. 17796, 18263, 20506 AND 21020 OF 2009

COMMON ORDER:

The issue in these writ petitions being one and the same, they are disposed of by this common order.

2. Questioning the interim suspension order passed by the respondents under Section 59(1) of the Andhra Pradesh Cooperative Societies Act, 1964, (for short, "the Act"), petitioners have approached this Court by these writ petitions.

3. The facts in these petitions are not in dispute. The impugned suspension order is purported to be made in exercise of the power vested under Section 59(1) of the Act. These petitions are filed on the specific ground that the condition precedent for invoking Section 59(1) of the Act is not exercised in the present case and, as such, the very invocation of the provision under Section 59(1) of the Act is unsustainable and consequently, the order is liable to be set aside.

4. This Court while admitting these writ petitions, by expressing a *prima facie* opinion, granted interim suspension.

5. A counter affidavit has been filed by the respondents in W.P.No.18263 of 2009, wherein it has been stated that several daily newspapers published news about committing of several irregularities in sanctioning of incentives and that Government funds were

misutilized. Thereby, the Divisional Cooperative Officer submitted proposals to the Joint Registrar/District Cooperative Officer for ordering an inspection under Section 52 of the Act and in the meanwhile issued directions under Section 59(1) of the Act to the Managing Committee of the Society to keep the Secretary/Chief Executive Officer of the Society under suspension.

6. There is no whisper in the counter affidavit as to whether during the course of audit under Section 50 or enquiry under Section 51 or inspection under Sections 52 or 53, any irregularities have come to the notice of the Registrar and that there was a misappropriation etc., in the affairs of the Society. In the absence of the circumstances enumerated under Section 59, the power vested under Section 59 cannot be exercised. This issue is no longer *res integra*, as is contended by the learned counsel for the petitioners. This Court in similar circumstances had held that the preconditions having not been satisfied, the suspension order cannot be sustained. {The *Guntur Weavers Cooperative Production and Sale Society Limited* vs. *The Assistant Director of Handlooms and Textiles, Guntur* ¹}.

7. Learned Government Pleader submits that pursuant to the orders of this Court, the suspension of the petitioners has been revoked and they were taken into service.

¹ 1993-1 An.WR. 1

8. In the facts and circumstances of the case, the Writ Petitions are allowed. However, this order shall not preclude the respondent-authorities from either conducting enquiry or from taking any action in relation to affairs of the Society in accordance with law.

As a sequel, the miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

September 1, 2016
LMV

JUSTICE CHALLA KODANDA RAM

