

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.19700 OF 2015

ORDER:

The writ petition is filed challenging the action of the respondents 2 and 3, in issuing the notice dated 25.06.2015.

It is the case of the petitioner that he was elected as a President of Primary Milk Producers Mutually Aided Co-operative Society Limited, Datharpally, Nalgonda District, which was registered as Mutually aided Cooperative Society bearing Reg.No.58/2003, under the A.P Mutually Aided Cooperative Societies Act, 1995 (for short, "the Act") and he has been doing milk business at Datharpally Village. The term of the office of the President, is for one year. After electing the petitioner as a President of the Society, he approached the 2nd respondent-Divisional Cooperative Officer, to submit an audit report and also to intimate about the conducting of the elections.

However, the 2nd respondent refused to receive the said audit report and on the contrary, issued a notice to the petitioner on 23.06.2015 asking him to be present on 02.07.2015 for enquiry. It is also stated that the action of the 2nd respondent in refusing to receive the information furnished by the petitioner and on the contrary issuing the notice is arbitrary and if there is any dispute in relation to conducting of the election, the same shall have to be settled in terms of Section 37 of the Act.

This Court while ordering Rule Nisi on 01.07.2015, gave a direction restraining the 3rd respondent-Assistant Registrar from taking any further decision with regard to dissolution of body elected on 23.06.2016 until further orders.

In the counter-affidavit filed by the 3rd respondent, it has been categorically denied about the elections having been conducted and further stated that the petitioner did not participate in the enquiry. It is further denied in the counter-affidavit that the petitioner had never

approached him to submit the minutes of the meeting etc. The impleaded petitioners who are the members of the Society also filed an application seeking to vacate the interim order dated 01.07.2015, passed by this Court in W.P.M.P.No.25437 of 2015. It is further categorically averred in the counter-affidavit that 58 members out of 84 members were present in the enquiry conducted on 02.07.2015 and unfortunately, the petitioner did not attend the enquiry and on the other hand, the petitioner approached this Court with false averments.

There is no reply affidavit filed by the petitioner denying the averments made in the counter-affidavit specifically asserting that an enquiry was conducted on 02.07.2015. In other words, petitioner though had an ample opportunity to place the material available with him before the concerned authority, had failed to do so. In those circumstances, the contention of the petitioner that there was an election conducted for the General Body and he was elected as a President of the Society cannot be said to have been established.

Though, it is asserted by the petitioner that as long back as on 29.06.2015 he had made a complaint to the District Collector, thereafter, no further steps were taken by him except by filing the present writ petition challenging the impugned notice.

Having regard to the facts and circumstances of the case and especially in view of there being no material placed before this Court to come to a conclusion that there was election conducted, the dispute as to questions of fact cannot be gone into by this Court. In those circumstances, I see no merits in the writ petition restraining the respondents from taking action in accordance with the law.

Accordingly, the writ petition is dismissed. No order as to costs.

In view of the disposal of the main writ petition, Miscellaneous Petitions, if any pending in this writ petition shall also stand closed.

CHALLA KODANDA RAM,J

Date:08.03.2016.

Gk

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

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