

**THE HON'BLE SRI JUSTICE S.V.BHATT**

**WRIT PETITION No.21944 of 2006**

**ORDER:**

Heard Mr. P. Srinivas for petitioner, learned Assistant Government Pleader for first respondent and Mr. B. Thimothi for respondents 2 to 9. With the consent of learned counsel for parties, the writ petition is taken up for hearing and disposal.

2. Petitioner-society prays for Certiorari to call for the records in ARC.No.1/2004-05 dated 19.09.2006 from the first respondent and quash the same as illegal and contrary to the A.P. Cooperative Societies ct, 1964 (for short 'the Act').

3. The first respondent through the impugned order directed the writ petitioner/society as follows:

"In the circumstances the society is directed to render the services of the society allowing them to cultivate the land allotted to them."

4. Before proceeding to consider the twin factual and legal objections raised by the writ petitioner, I consider it appropriate to excerpt Section 22 of the Act.

**22. Right of members to services by society and application for redress: -**

1. Every member on his admission as such member shall be entitled to the services available to the members of the society and such services shall, subject to availability, be rendered by him on his application to the committee.
2. If any member is refused any service, or where the decision of the committee on his application for services is not communicated to him within a period of thirty days from the date of such application, he may make an application to the Registrar for redress, within thirty days from the date of receipt of the decision of refusal, or within sixty days from the date of application to the society, as the case may be.
3. If the Registrar is satisfied that the refusal of any service is unreasonable, improper or discriminatory, he may after giving the committee an opportunity of making its representation by order,

direct the committee to render the service.

5. Mr. P. Srinivas, appearing for petitioner, contends that from the chronology of dates and events it can be contended that the petition filed under Section 22 of the Act by respondents 2 to 9 before the first respondent is not maintainable. According to him, without prior demand for rendering services by the committee no such application is directly maintainable before the first respondent under Section 22 of the Act and on that ground alone, the order impugned in the writ petition is liable to be set aside. An alternative submission is that the first respondent assumed respondents 2 to 9, in fact, are members of the petitioner society and issued directions already excerpted. According to him, no enquiry was conducted to decide the fact in issue and the assumption of first respondent that respondents 2 to 9 are members of the petitioner society suffers from illegality and liable to be set aside.

6. Mr. B. Timothy contends that the representation filed before the first respondent refers to alleged demand of services by the committee and that the continued silence amounts to refusal, therefore, the respondents are justified in filing petition before the first respondent for appropriate directions under Section 22 of the Act. Learned counsel on the other contention fairly states that the order impugned in the writ petition, in fact, does not in so many words record a finding about the status of respondents 2 to 9 as members of petitioner society but according to him, respondents 2 to 9 are members and are entitled to appropriate directions from the first respondent.

7. I have perused the material available on record and noted the submissions of learned counsel for the parties. The order of first respondent is issued in purported exercise of power and jurisdiction under Section 22 of the Act. The jurisdiction is attracted or can be invoked if respondents 2 to 9 have *prima facie* satisfied that they are members of the petitioner society

and secondly, the society declined to extend services to them. On the other hand, if the status of respondents 2 to 9 is not in issue before the first respondent, the first respondent by assuming that the applicants before him are, in fact, members of the society, could have issued appropriate directions.

8. Though counsel tried to persuade this Court with material in support of their respective contentions, this Court is of the view that the first respondent ought to have framed points for consideration, afforded opportunity to both parties and passed appropriate orders in accordance with law. On the short ground that for not recording appropriate findings on the status of respondents 2 to 9 the jurisdiction under Section 22 of the Act is entertained, I am satisfied the order impugned in the writ petition can be set aside and the matter can be remitted to first respondent for disposal positively within four (4) weeks from the date of receipt of a copy of this order.

To shorten the litigation or delay in the matter the writ petitioner and/or respondents 2 to 9 are directed to represent to first respondent with further explanation, if any, along with a copy of this order within two (2) weeks from today and the first respondent shall dispose the grievance in accordance with law.

The writ petition is ordered as indicated above. As a sequel, the miscellaneous applications, if any pending, shall stand closed. There shall be no order as to costs.

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S. V. BHATT, J

June 1, 2016  
DSK