

HON'BLE SRI JUSTICE S.V.BHATT

W.P.No.20627 OF 2009

ORDER:

Heard Sri Challa Gunaranjan, learned counsel for the petitioner and Sri P.Ravi Kumar, learned Assistant Government Pleader for respondents. With the consent of learned counsel appearing for the parties, the writ petition is finally heard at interlocutory stage and disposed of.

The petitioner prays for writ of Certiorari to call for the proceedings in Rc.No.689/09-F dated 24.06.2009, 10.07.2009 and 19.08.2009 and quash the same as illegal, contrary to the A.P. Cooperative Societies Act, 1964 and unconstitutional.

Briefly stated, the impugned proceedings are issued under Section 51 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'). Section 51 of the Act confers power on the Registrar to order enquiry into the constitution, working and financial condition of a Society.

The circumstances relevant for the disposal of the writ petition are as follows:

In July, 2008, the petitioner was elected as President of Ananthapur Cooperative House Building Society Limited.

On 30.10.2008, the Managing Committee under the aegis of the President decided to cancel the allotment of Plot Nos.82, 92 and 110 forming part of the sanctioned layout developed by House Building Society Limited. One Mr.C.R.Sudhakar Reddy on 25.05.2009 complained against cancellation of the allotted plot in his favour and registration in favour of one Smt.P.Rukminamma and requested enquiry into the conduct of business by the Society. On 10.06.2009, the Divisional Cooperative Officer, Anantapur conducted discreet enquiry into the allotment of plots or cancellation of allotted plots and

submitted his report to the District Cooperative Officer/

2nd respondent. The same was followed by the proceedings and letters dated 10.07.2009 and 19.08.2009 and finally the impugned proceedings are issued directing enquiry under Section 51 of the Act into the affairs of the Anantapur Cooperative House Building Society Limited. Hence, the writ petition.

Learned counsel for the petitioner challenges the proceedings on the ground that the impugned proceedings cannot and could not be treated as *suo motu* enquiry directed by the 2nd respondent, but shall have to be understood as ordering enquiry on the representation of a member of the society. Therefore, if enquiry is sought to be held under Section 51 of the Act, the requirement of law is that the same shall be at the instance of a request by at least one third of the members of the committee or at least one fifth of the total members of the society. Basing upon mere representation of one member, ordering statutory enquiry is illegal and on the ground of non-conforming with the requirements of Section 51, the impugned proceeding is liable to be quashed.

Learned counsel appearing for the respondents draws the attention of the Court to the references on which the enquiry was ordered and also the following paragraphs in the counter affidavit:

“It is submitted the Divisional Cooperative officer, Anantapur, pursuant to the above said report vide Lr.dated 10.06.2009 requested this respondent Anantapur to order an enquiry under Section 51 of the Andhra Pradesh Cooperative Societies Act, 1964. This respondent exercising the powers conferred on him ordered an enquiry U/Section 51 authorising Sri K.B.Kailasnath Sub-Divisional Cooperative Officer, Anantapur to conduct enquiry into the affairs of the Anantapur Cooperative House Building Society Ltd., Anantapur. Subsequently, due to administrative reasons, in partial modification of the proceedings issued earlier, Sri K.Sudhindra Rao,

Assistant Registrar was authorized to conduct enquiry into the affairs of the above said Society. The enquiry officer has issued summons under Section 55(1) of the Andhra Pradesh Cooperative Societies Act, 1964 for production of books to take up the enquiry. But the President and the Secretary have requested time of 30 days to hand over records on the ground that part of the old building was demolished to construct a new building.

It is respectfully submitted that in view of the preliminary enquiry report and the prima facie evidence of irregularities in respect of the affairs of the society, Section 51 has been ordered. There is no illegality or irregularity in ordering the enquiry. No rights of the petitioner will be effected by virtue of the enquiry proposed to be conducted. The grounds urged by the petitioner are therefore not just or tenable. The only aim and intention of the petitioner appears to be to drag on the matter.”

Therefore, he submits that with the receipt of preliminary report, it cannot be contended by the petitioner that the enquiry is directly ordered on the solitary representation of one Sudhakar Reddy.

The learned counsel for the petitioner alternatively contended that the impugned proceedings are directed against the President of the Society but not into the affairs of the Society and for this reason as well, the impugned proceedings are liable to be set aside.

I have perused the material available on record and taken note of the submissions of learned counsel appearing for the parties. At the first blush, it appeared that the enquiry into the affairs of House Building Society is ordered on the representation of one Sudhakar Reddy. To be fair to the petitioner, the petitioner has placed on record correspondence covered by proceedings dated 24.06.2009 and 10.07.2009. A combined reading of these two proceedings would go to show that the 2nd respondent has received information necessary for the purpose of exercising his *suo motu* jurisdiction and on being satisfied has ordered

enquiry into the affairs of Society, but not against the President in his individual capacity. The merits, if any, will have to be proved in the enquiry conducted by the authority named by the 2nd respondent. From the material available on record, this Court is of the view that initiating enquiry under Section 51 of the Act is not on mere representation of one Sudhakar Reddy, but on the reports referred to above. The contention is rejected.

The writ petition fails and is, accordingly, dismissed. There shall be no order as to costs.

Consequently, pending miscellaneous petitions, if any, also stand disposed of.

S.V.BHATT, J

29th February 2016

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