

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.27139 of 2006

ORDER:

The petitioners challenge the Surcharge Notice Rc.No.2063/2004-C dated 01.09.2006 issued under Section 60(1) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') by the first respondent read with letter Rc.No.2063/2004-C dated 12.12.2006 as illegal and to set aside the same.

2. The impugned show cause notice reads as follows:

"... And whereas Inquiry Officer clearly established in his report from page No.5 to the end of the report that Sri Putta Murali Krishna and S. Demudu colluded with 7 ineligible members and raised loans in their names which are not recovered till date.

It is a clear evidence of causing loss and deficiency of society funds.

Hence, now the Deputy Registrar of Coop. Societies, Yellamanchili in exercise of powers conferred on him U/S60 (1) of the APCS Act 7 of 1964 read with G.O.Ms.No.34 F&A (Coop IV) Dt. 16-1-1989 hereby called for explanation to show cause why an amount of Rs.1,95,000/- with further interest from the date of loan raised is not recovered from the Sri Putta Murali Krishna Ex.President and S. Demudu, Secretary jointly and severally for causing losses, deficiency of society funds and also for making breach of trust in protecting society funds. Their written explanation should reach the undersigned within 30 days from the date of this notice and also called onto appear before the Deputy Registrar of Coop. Societies Yellamanchili on or before 30-9-2006 with their written explanation and evidence documents in defending their contentions. Failure to attend before Deputy Registrar of Coop. Societies, Yellamanchili or non submission of explanation shall be deemed to that they have no valid explanation and the case shall be disposed off as per recorded evidence."

3. From the above, it is clear that the first respondent, having regard to the enquiry report submitted by the Sub-Divisional Cooperative Officer, has issued the impugned surcharge notice to petitioners. Though Mr. K. Rajanna, learned counsel appearing for petitioners, tried to persuade this Court on various grounds touching upon the merits of the matter in issue and also that the show cause notice is without jurisdiction, *prima facie*, I am of the view that the petitioners assailed the

show cause notice issued under Section 60(1) of the Act wherein the first respondent has given 30 days time to petitioners to submit their explanation. Therefore, this Court, at this stage of the matter, by considering the explanation offered in the writ affidavit, cannot embark upon deciding the legality of the impugned notice. The petitioners have to submit explanation and the first respondent considers the same in accordance with law and passes appropriate orders. Therefore, I am not inclined to entertain the writ prayer but to ensure fairness in action and also allay the fears of petitioner, I am satisfied the writ petition can be disposed of by this order.

- a) The first respondent is directed to furnish copy of enquiry report together with remarks, if any, of the authorities to petitioners within four (4) weeks from the date of receipt of a copy of this order.
- b) The petitioners are given liberty to communicate copy of this order within two (2) weeks from today to the first respondent to comply with the above said direction.
- c) The petitioners are given further time of four (4) weeks from the date of receipt of enquiry officer's report to submit explanation to the impugned notice dated 01.09.2006. The first respondent, thereafter, shall conduct enquiry and pass appropriate orders.
- d) The interim order granted on 29.12.2006 is confined to the limited extent of criminal prosecution against the petitioners till the disposal of enquiry and subject to the outcome of the said enquiry.

With the above directions, the writ petition is disposed of.

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

S. V. BHATT, J

March 31, 2016
DSK