

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No.29604 of 2016

Order:

The petitioner was working as Deputy General Manager of the fourth respondent Bank. While he was working as such, one Haroon Rashid of Vizianagaram lodged a complaint against the affairs of the fourth respondent to NABARD and on such complaint a preliminary investigation was conducted. The preliminary investigation revealed certain financial irregularities. On the basis of such report, the Registrar of Cooperative Societies, Hyderabad, ordered inspection under Section 53 of the AP Cooperative Societies Act, 1964 into the affairs of the fourth respondent Bank by appointing an officer of the AP Cooperative Bank. He submitted a report on 26.04.2014 confirming the irregularities. On the basis of such report, the second respondent instructed the District Cooperative Officer, Vizianagaram to initiate civil, criminal and disciplinary proceedings by his proceedings dated 03.03.2015. The petitioner was placed under suspension by order of the second respondent dated 04.03.2015. Challenging the said proceedings, the petitioner filed WP No.7049 of 2015. Thereafter, charge sheet-cum-show cause notice was issued by the fourth respondent on 11.04.2015 framing seven charges against the petitioner and the petitioner submitted explanation on 25.07.2015 and 08.08.2015. The fifth respondent was appointed as Enquiry Officer. He conducted enquiry on 09.02.2016 and 10.02.2016 and submitted his report to the fourth respondent. Since there was an interim order in WP No.7049 of 2015 suspending the orders of the second respondent dated 07.03.2015 the petitioner should have been reinstated into service. The second respondent issued proceedings on 15.07.2016

instructing the sixth respondent to comply with the orders and on receipt of the same the fourth respondent convened an urgent meeting and issued show cause notice on 15.07.2016 proposing to impose major penalty of dismissal based on the recommendations of the fifth respondent on seven charges framed against the petitioner. However, in pursuance of the interim orders passed in WP No.7049 of 2015, the petitioner was reinstated as Deputy General Manager by proceedings dated 18.07.2016. Accordingly, the petitioner joined duty on 19.07.2016. Challenging the show cause notice dated 15.07.2016 the petitioner filed WP No.25215 of 2016 and pending the said Writ Petition the petitioner was dismissed from service by orders of the fourth respondent dated 30.07.2016 with effect from 01.08.2016. However, the said order of dismissal was set aside by this Court in WP No.25215 of 2016 by giving liberty to the petitioner to submit his explanation before 10th August 2016 and the fourth respondent was directed to consider the same impartially and take an appropriate decision. The petitioner submitted his explanation on 08.08.2016 and an order of dismissal from service was passed on 16.08.2016. Challenging the same, the present Writ Petition is filed.

2. The said order of dismissal is subject to an appeal before the Board of Directors of the fourth respondent Bank, but out of 22 directors, 12 or 18 directors are involved in irregularities and it is not proper for the petitioner to file an appeal before the Board of Directors who themselves are involved in the irregularities. In order to give an opportunity to the petitioner to file an appeal, this Court feels that in the peculiar facts and circumstances of the case the District Cooperative Officer, Vizianagaram be asked to act as an appellate authority.

3. The Writ Petition is, accordingly, disposed of giving liberty to the petitioner to file an appeal before the District Cooperative Officer, Vizianagaram, though the same is not provided under the Byelaws of the fourth respondent, within a period of two weeks from the date of receipt of a copy of this order and the District Cooperative Officer, Vizianagaram, shall consider the appeal in accordance with law and after providing an opportunity of personal hearing to the petitioner dispose of the same within a period of four weeks thereafter. There shall be no order as to costs.

4. As a sequel thereto, the miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

Date: 08.09.2016
Nsr

A. RAMALINGESWARA RAO, J

