

THE HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.26151 of 2011

ORDER:

Heard learned counsel for petitioner, learned Assistant Government Pleader for Cooperation and Mr. K. Narsi Reddy for seventh respondent.

2. The petitioner challenges the communication Rc.No.1385/1994-B1 dated 08.09.2011 as illegal and contrary to the provisions of the A.P. Cooperative Societies Act.

3. The impugned communication is addressed by the Divisional Cooperative Officer, Kurnool to the Superintendent of Police, Kurnool. Through impugned communication, the Cooperative Department requests the Superintendent of Police, Kurnool to issue necessary instructions to the Station House Officer, Jupadu Bungalow to register FIR and investigate into the crime sought to be registered against the petitioner.

4. According to the petitioner, the communication dated 08.09.2011 is not based upon proper and correct appreciation of facts in the case on hand and without demur or dispute the civil liability sought to be fastened by the department was accepted and amount paid. There is no criminal conspiracy in the matter and initiation of criminal proceeding is unwarranted. It is further stated that the petitioner has retired from service long ago and basing upon the impugned communication, if FIR is registered, the petitioner will be subjected to avoidable harassment of investigation and trial.

Petitioner prays for issuing appropriate directions to the Divisional Cooperative Officer, Kurnool.

5. Counsel for petitioner draws the attention of the Court to the counter affidavit filed by respondents 2, 3 and 5 and contends that no cause for registering FIR is made out.

6. Learned Assistant Government Pleader fairly states that if all the circumstances, which are relevant for addressing the letter to the Superintendent of Police, Kurnool, are not considered by the department, the petitioner can be given liberty to represent to respondents 2 and 5. Respondents 2 and 5 will consider the representation in right perspective and issue, if necessary, appropriate further orders in this behalf.

7. Having regard to the submission of the learned Assistant Government Pleader, the petitioner is given liberty to represent to respondents 2 and 5. Respondents 2 and 5 are directed to consider the representation, examine the necessity of initiating criminal proceedings at this stage of the matter, if necessary, afford opportunity to the petitioner and thereafter, if circumstances so warrant, issue further communication to the Superintendent of Police, Kurnool. It is needless to observe that if a crime is registered or investigation taken up, remedies available to the petitioner either under the Criminal Procedure Code or otherwise are left open.

The writ petition is disposed of with the above directions.

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

S. V. BHATT, J

June 17, 2016
DSK