

The Court made the following: [order follows]

HONOURABLE SRI JUSTICE S.V. BHATT

WRIT PETITION NO. 28056 OF 2012

ORDER:

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The issue arises under A.P. Mutually Aided Co-operative Societies Act, 1995. The petitioner is a practicing Advocate at Vijayawada. On 8/3/2009 he was appointed as liquidator of Machilipatnam Municipal Employees' Mutually Aided Co-operative Credit Society Limited/third respondent. On 10/11/2011, the petitioner submitted resignation as liquidator to the first and the second respondents. On 16/11/2011 the second respondent sent the following reply to the petitioner.

"I invite your attention to the captioned subject and reference cited, wherein you have informed that you were appointed as Liquidator of the above said Society and now you want to resign from the said position. Further you have requested the Deputy Registrar of Co-operative Societies, Machilipatnam to accept your resignation as Liquidator of the above said society with immediate effect.

In this connection, I am to inform that as verified from the records in this Office, it is noticed that Deputy Registrar of Co-operative Societies, Machilipatnam has not appointed you as liquidator of the above said society. Hence, you are requested to submit your resignation to the authority, who has appointed you as Liquidator and get it approved by the said authority. Further you are also requested to hand over the records in your custody pertaining to the above society to the person/office from whom you have taken over them after your resignation is approved."

2. The petitioner challenges the said communication on various factual and legal grounds. On 07/9/12, having regard to peculiar facts and circumstances of the case, this Court granted interim order that no coercive steps shall be taken against petitioner if he is not willing to act as liquidator. The first and second respondents filed petition to vacate the said interim order.

3. I have perused the impugned letter in Rc.No.1804/2009/E, dated 16/11/2011 and noted the admitted circumstances as borne out in the counter affidavit filed on behalf of respondents 1 and 2. The totality of circumstances, no doubt present a strange situation. The petitioner does not want to continue as liquidator of third respondent bank. The third respondent bank does not have managing committee and no one is belling the cat to call for the General Body of the third respondent society to resolve the issue of the petitioner or the report referred to paragraph No.10 of the counter-affidavit. The respondents cannot expect the petitioner to continue to discharge the duty of liquidator more particularly when the petitioner claims to have not received or possessed any of the assets/property of third respondent society. From the stand taken in the counter-affidavit

it prima facie appears that enquiry into the mis-management of the society was conducted, report was obtained and a further direction was given to place the report before the General Body. It is not in dispute that society is in existence but non-functional and in the process of winding up. Therefore, to give quietus to the impasse, this Court directs the first and second respondents to convene General Body Meeting of third respondent society within eight weeks' from the date of receipt of a copy of this order and inform the petitioner as well of the proposed meeting of General Body of third respondent. The petitioner is given liberty to take appropriate steps on the appointed day and hour vis-à-vis his continuation as liquidator of third respondent society. As allegations of mis-management of society affairs are alleged, respondents 1 and 2 are directed to take sufficient care and caution in convening the General Body and ensure that the members meet at one place to consider all issues including the request of petitioner to accept his resignation as liquidator. Till final decision in this behalf is taken either by respondents 1 and 2 or the General Body, the interim order dated 7/9/12 is directed to be continued.

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

No order as to costs.

5. As a sequel, miscellaneous petitions if any, pending in this writ petition shall stand closed.

JUSTICE S.V. BHATT

31/03/2016
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HONOURABLE SRI JUSTICE S.V. BHATT

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WRIT PETITION NO. 28056 OF 2012

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