

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY
AND
THE HON'BLE SRI JUSTICE G.SHYAM PRASAD

WRIT APPEAL No.626 of 2016

-
11.08.2016

Between:

M.D.Gaffar

..Appellant

And

The State of Telangana,
represented by its Principal Secretary,
Cooperation Department,
Hyderabad and others

..Respondents

Counsel for the appellant: Mr.M.Rama Rao

Counsel for respondent Nos.1 to 3: Government Pleader for
Cooperation (TS)

Counsel for respondent No.4: Mr.Ch.Jayakrishna
for T.Amarnath Goud

Counsel for respondent No.5: --

The Court made the following:

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JUDGMENT: (Per the Hon'ble Sri Justice C.V.Nagarjuna Reddy)

Assailing the order, dated 24.03.2015, in W.P.No.7759 of 2015 of the learned Single Judge, whereby he has dismissed the said writ petition, the unsuccessful writ petitioner filed this writ appeal.

2. We have heard Mr.M.Rama Rao, learned counsel for the appellant, and perused the record.

3. While the appellant was employed as the Chief Executive Officer (CEO) and the Secretary of the Primary Agricultural Cooperative Society (PACS), Thimmapuram, an enquiry under Section 51 of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act') was instituted into the irregularities occurred in disbursement of the loans to seven PACSs by the District Cooperative Central Bank (DCCB), Devarakona Branch, during the period 2010-13 and also into the affairs of the said Bank during the period when one Mr.B.Ramaiah worked as the Manager, DCCB Branch, Devarakonda Branch. After holding the enquiry, the enquiry officer submitted his report, dated 20.10.2014, under Section 51 of the Act. The enquiry officer categorically found that on verification of the SB ledgers in DCCB, Devarakonda Branch, it was proved that large amounts were diverted into the S.B. accounts of the CEO/Staff Assistant of PACS, PA Pally, the CEO of PACS, Chitriyala, bank staff and other private individuals and also into the account of the appellant, who was the CEO of PACS, Thimmapuram. It was further found that Mr.B.Ramaiah, Branch Manager, for his selfishness and with the *mala fide* intention colluded with the aforementioned persons, including the appellant, and diverted large amounts into the SB accounts of the said persons and misappropriated the same. Having so held, the enquiry officer, *inter alia*, suggested that disciplinary action shall be initiated against the officials of the Head Office, DCCB and the other bank officials

concerned during the relevant period and that criminal action shall be taken against the said Mr.B.Ramaiah. Having received the said report, respondent No.2 issued proceedings, dated 17.11.2014, wherein he pointed out certain short comings in the enquiry report, which include the failure of the enquiry officer to apportion the responsibility of the CEOs of PACSs, including the appellant. Accordingly, he had identified as many as 14 aspects, on which the enquiry officer was requested to go through each loan account and arrive at a decision, whether it is false or genuine and fix up proper responsibility against all the concerned, to avoid future legal complications. In compliance with the said direction, respondent No.3 – the enquiry officer submitted his report, *vide* Rc.No.23491/2013-C, dated 02.02.2015, with respect to each of the aspects raised by respondent No.2 in his proceedings, dated 17.11.2014. After receiving the further enquiry report, dated 02.02.2015, respondent No.2 issued consequential proceedings, dated 16.02.2015.

4. Feeling aggrieved by the proceedings, dated 17.11.2014, and the consequential proceedings, dated 16.02.2015, of respondent No.2, the appellant filed W.P.No.7759 of 2015. The learned Single Judge, after a detailed consideration of the pleas raised by the appellant and the contentions advanced by his counsel, held that the proceedings, dated 17.11.2014, of respondent No.2 directing respondent No.3 to clarify the various aspects pointed out by him does not amount to re-enquiry and that as the enquiry report of respondent No.3 was ambiguous on certain areas, respondent No.2 not denuded of the power to call for clarifications, by way of a supplementary report. In our opinion, the findings of the learned Single Judge are in conformity with the provisions of Section 51 of the Act. The power to hold an enquiry or direct some other person authorized by him to hold an enquiry under Section 51 of the Act takes within its sweep, power to give directions from time to time regarding the manner in which the enquiry needs to

be held and also to call for further report, wherever the enquiry report submitted by the enquiry officer suffers from ambiguity or absence of proper findings or details. This is precisely what respondent No.2 has done in his proceedings, dated 17.11.2014. Therefore, we do not find any illegality or jurisdictional error on the part of respondent No.2 in issuing the said proceeding calling for further findings from respondent No.3 on various aspects, on which the enquiry report lacked clarity. In this view of the matter, the learned Single Judge was justified in not interfering with the proceedings impugned before him and hence, the order under appeal does not suffer from any error apparent on the face of record, warranting our interference while exercising our Letters Patent jurisdiction.

5. For the aforementioned reasons, the Writ Appeal is dismissed.

6. As a sequel to dismissal of the writ appeal, W.A.M.P.No.1631 of 2016 filed by the appellant for interim relief shall stand dismissed as infructuous.

C.V.NAGARJUNA REDDY, J

G.SHYAM PRASAD, J

11th August, 2016

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