

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.12779 OF 2016

ORDER:

This writ petition is filed challenging the order dated 29.12.2015 passed by the 3rd respondent-Deputy Registrar of Cooperative Societies/Divisional Cooperative Officer, Golconda Division/Arbitrator, Golconda Division, Hyderabad.

It is the case of the petitioner that he joined in the services of the 4th respondent-Cooperative Urban Bank Limited on 29.03.1998 as Clerk in Ranigunj and discharging the duties till 2012. During that period, petitioner was alleged to have been committed certain irregularities and in that process, an internal disciplinary enquiry under Section 51 of A.P.C.S Act was ordered against him. Thereafter, the 4th respondent-Bank referred the dispute under Section 61(1)(c) of the Act 7 of 1964 read with Rule 49 of the A.P. Cooperative Rules, 1964 vide A.R.C.No.119 of 2014 to the 3rd respondent-Arbitrator-Deputy Registrar of Cooperative Societies.

In the process of arbitration proceedings, the Deputy Registrar after making a reference to Rule 49 of the Rules recording that there was no representation on behalf of the petitioner on 28.12.2015 at 11.30 a.m to put forward his arguments, the 3rd respondent-Deputy Registrar reserved the case for orders and passed the *ex parte* orders fastening a liability of Rs.1,11,99,215.76 ps with interest at 10% p.a with effect from 1.12.2014.

It is the specific contention of the petitioner that there is a gross violation of the principles of natural justice. Learned counsel appearing for the petitioner making a reference to the impugned order wherein it has been recorded that on 29.12.2015 a counter having been submitted by the petitioner and further by referring to the specific averments in the writ affidavit that on 29.12.2015, petitioner was expected a hearing at 3.00 p.m and at 3.00 pm though he was present it was not informed to him that the matter was reserved for orders. In

fact on 29.12.2015 petitioner filed his counter and on 29.12.2015 petitioner's counsel also applied for a copy of the docket proceedings. At no point of time, petitioner was informed about the orders having been passed on 29.12.2015. It is only when the petitioner filed a Writ Petition No.966 of 2016 before this Court praying this Court to direct the 3rd respondent to reopen the A.R.C for the purpose of hearing on merits a copy of the order dated 29.12.2015 was served. The petitioner's counsel contends that the order dated 29.12.2015 was not made on 29.12.2015 and was brought up only to defeat the prayer in W.P.No.408 of 2016.

The learned counsel for the petitioner submits that there is a gross violation of the procedure laid down under Rule 49(2) of the Rules besides utter violation of the principles of natural justice. Learned counsel for the respondents produced the record before this Court. As can be seen from the very impugned order the factum of petitioner filing a counter on 29.12.2015 is evident. As on the date of the 3rd respondent passing the order, if the counter is there on record notwithstanding the fact that the petitioner even assuming was set *ex parte* on 28.12.2015 nothing prevented the 3rd respondent to have made a reference to the counter-affidavit on record and consider the same before passing orders. It may be noted that a huge liability to the tune of Rs.1,11,99,215.76 ps with interest at 10% was sought to be fastened on petitioner without any reasoning merely alleging that on 28.12.2015 petitioner was not present and thereby he was set *ex parte*. In those circumstances, there being violation of principles of natural justice affecting the civil rights of the petitioner, the impugned order is set aside remanding back the matter to the 3rd respondent to conduct the enquiry afresh and pass appropriate orders in accordance with the law.

Accordingly, the writ petition is allowed remanding the matter to the 3rd respondent-Deputy Registrar of Cooperative Societies, to conduct an enquiry afresh and pass appropriate orders in accordance

with the law within a period of four weeks from the date of receipt of copy of the order. No order as to costs.

As a sequel to disposal of the writ petition, WP.M.Ps if any pending shall stand disposed of as infructuous.

CHALLA KODANDA RAM, J

Dated:21.04.2016

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