THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.21296 OF 2016

ORDER:

The surcharge order dated 30.04.2016 passed under Section 60 (1) of Andhra Pradesh Cooperative Societies Act (for short 'the Act') by the 4th respondent is challenged before this Court.

One of the specific contention of the petitioners is that for the years 2007-2008 to 2012-2013, an excess expenditure of Rs.1,43,563/- is alleged against the Society, in violation of Rule 36-B of the Act.

The contention of the learned counsel for the petitioners is that the expenditure, which has been pointed out as in excess of the permissible limits, cannot be considered as the expenditure incurred on account of the property tax, postage to send notices to 2000 members under certificate of posting besides expenditure incurred on account of the paper and T.V. Ads. It is also the contention of the learned counsel for the petitioners that the expenditure in relation to establishment and staffing could not have been included for the purpose of reckoning the expenditure to be permissible expenditure in terms of Rule 36-B of the Act. The detailed explanation submitted by the petitioners on 29.02.2016 and 22.04.2016 was not adverted to and considered by the 4th respondent.

Heard the submissions of learned counsel for the petitioners and the learned Government pleader.

The impugned order does not disclose the explanations submitted by the petitioners having been considered in any manner and more importantly no finding as such has been recorded by the 4th respondent except making a reference that the Ex-President had stated that working capital shown in the surcharge notice is to be taken from the working capital mentioned in the final audit report and that all expenses of Rs.1,43,563/- incurred by the Society are for the requirements of the Society such as property tax, postage etc. Except this reference, the aspects as to whether the explanation submitted by the petitioners is acceptable or not, whether the same is within the permissible limits and whether this expenditure is of expenditure of necessity have not been adverted to and decided by the 4th respondent.

In these circumstances, the order of the 4th respondent is virtually a non-speaking order lacking reasoning or the findings and as such the interests of justice would be served, if the same is set aside and the matter is remanded back to the

4th respondent for consideration afresh, in accordance with law. It is needless to mention that the petitioners shall be given an opportunity of hearing more specifically to enable them to explain the nature of expenditure with supporting material.

With the above observations and directions, the writ petition is disposed of. No order as to costs.

In view of disposal of the main writ petition, miscellaneous petitions pending in the writ petition, if any, shall stand closed.

Challa Kodanda Ram, J

4th July, 2016.
Rds

THE HONOURABLE SRI JUSTICE CHALLA KODANDA RAM

-
-
-
-
-
-
-
-
-
-
-
-

WRIT PETITION No.21296 OF 2016

Dated : 04.07.2016

Rds