

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 15895 of 2014

Order:

It is the case of the petitioner that he is a permanent employee of the Primary Agricultural Cooperative Society (PACS), Nidamanoor and was working as Assistant Secretary. The District Collector (Cooperation), Nalgonda through his proceedings dated 21.04.2008 transferred his services from PACS, Nidamanoor to PACS, Thimapuram as Secretary/Chief Executive Officer. While discharging his duties as Secretary/Chief Executive Officer of the Society, a criminal case was registered at the instance of the General Manager of NDCCB and the President, PACS on the ground that the cheques of the Society were not issued directly to the members, but the same were deposited in the account of the Chief Executive Officer, President and other accused. The criminal case was registered as FIR No.143 of 2014 in the Court of the Judicial Magistrate of First Class, Devarakonda, Nalgonda district. The petitioner obtained bail and the said case is still pending. After availing leave from 15.01.2014 to 06.05.2014, he submitted a joining report on 07.05.2014 and a resolution was passed on 07.05.2014 accepting his joining report. A consequential order was also issued by the President of the Society. However, on the next day i.e., on 08.05.2014 an order was passed removing the petitioner from service. Challenging the said order of removal the present Writ Petition is filed on the ground that the order of removal was passed without conducting any enquiry.

This Court initially issued a notice on admission on 11.06.2014 and passed an order on 25.06.2014 suspending the order of removal. Seeking

vacation of the said order, W.V.M.P.No.2974 of 2014 and W.V.M.P.No.875 of 2016 are filed by the respondents along with counters. In the counter affidavits it is stated that the petitioner is not having clean service record. In view of the allegations existing against the petitioner a complaint was lodged on 21.12.2013 before the Station House Officer, Chandampet Police Station and accordingly Crime No.143 of 2013 was registered under Sections 409, 420 and 477-A IPC. The petitioner was arrested on 24.01.2014 and a charge sheet was filed on 25.01.2014. He was kept in judicial custody from 24.01.2014 to 02.04.2014 and he was released on bail on 02.04.2014. Though a resolution was passed on 07.05.2014 accepting the joining report, after coming to know of the facts of the case, the managing committee passed a resolution on 08.05.2014 removing the petitioner from service.

Learned counsel for the petitioner submitted that the resolution terminating the services of the petitioner was passed without conducting any enquiry and without affording any opportunity to the petitioner. Learned counsel for the respondents could not dispute the same, in view of the resolutions passed on 07.05.2014 and 08.05.2014.

Though there are allegations against the petitioner, appropriate enquiry has to be conducted if the Society wants to take any action regarding the services of the petitioner. The pendency of criminal case is different from the departmental proceedings. In the absence of any enquiry in respect of the allegations levelled against the petitioner, this Court is satisfied that the order of termination passed on 08.05.2014 without conducting any enquiry is bad in law.

In the circumstances, without expressing any opinion on the merits of the allegations levelled against the petitioner, the order of termination dated 08.05.2014 is set aside for violation of the principles of natural justice. However, this will not preclude the respondents from taking appropriate proceedings in accordance with law, if the Society wants to proceed against the petitioner in respect of the allegations levelled against him.

The Writ Petition is, accordingly, allowed. There shall be no order as to costs. The Miscellaneous Petitions pending, if any, shall stand closed.

At this stage, learned counsel for the petitioner submitted that in spite of the order of this Court granting suspension of the order of termination dated 08.05.2014 the petitioner is not being paid salary. It is needless to observe that if the petitioner has worked pursuant to the interim order passed by this Court, the petitioner is entitled for the salary for the period he worked. The arrears of salary, if any, shall be paid to the petitioner within a period of eight (8) weeks from the date of receipt of a copy of this order.

A. RAMALINGESWARA RAO, J

Date: 13.10.2016
Nsr