

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.496 of 2015

ORDER:

The petitioner states that he joined the respondent No.5 Co-operative Society in the year 1994 as a full time clerk. There were several allegations of financial irregularities against the members of Society and Committee and an enquiry under Section 51 of the A.P. Co-operative Societies Act, 1964 was conducted. Pursuant to the said enquiry, a show cause notice was issued to the petitioner on 28.10.2014 and he states that he submitted an explanation on 29.10.2014. After receipt of the explanation, an order was passed on 05.11.2014 stating that a resolution was passed by the members of Executive Committee unanimously deciding to terminate the services of petitioner, and accordingly, the services of petitioner were terminated. Challenging the same, the present writ petition was filed.

Respondent No.5 filed a counter affidavit stating that in the month of February 2013 a new Committee took over the charge. After taking over the charge, the Committee has noticed that the petitioner, who was working as C.E.O. of the Society, committed several irregularities and misappropriated the funds of Society. Accordingly, the Managing Committee of respondent No.5 Society made a request to the District Co-operative Officer-respondent No.2 to conduct an enquiry in respect of the affairs of the Society and he appointed the Assistant Registrar of Co-operative Societies, Huzurabad as Enquiry Officer by proceedings dated 26.11.2013. The Enquiry Officer conducted a detailed enquiry and submitted a detailed report to the Divisional Co-operative Officer. The Divisional Co-operative Officer-respondent No.3 issued

proceedings directing the petitioner to deposit an amount of Rs.4,04,821/- in Society's account, but the petitioner did not deposit the said amount. When he did not deposit the amount as directed, respondent No.5 Society issued a notice on 28.10.2014 asking him to show cause as to why his services should not be terminated. The petitioner did not submit his explanation to the said show cause notice. In those circumstances, respondent No.5 Society conducted a General Body Meeting on 05.11.2014 and passed a resolution resolving to terminate the services of petitioner as he misappropriated the funds of Society.

It is clear from the averments made in the counter affidavit that no regular enquiry was conducted before terminating the services of petitioner, but on the basis of resolution passed by the Executive Committee the services of petitioner were terminated. The submission of report under Section 51 of the A.P. Co-operative Societies Act has nothing to do with the termination of services of petitioner. Though the services of petitioner can be terminated only in accordance with the procedure prescribed by law, but no such procedure was followed before terminating the services.

In the above circumstances, the impugned order, dated 05.11.2014 terminating the services of petitioner, is set aside. However, liberty is given to respondent No.5 Society to conduct an enquiry and take appropriate action in accordance with law.

Accordingly, this Writ Petition is allowed. No order as to costs. Miscellaneous Petitions, if any, pending in this Writ Petition shall stand closed.

A.RAMALINGESWARA RAO, J

07.06.2016

MVA