

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

W.P.Nos.15253 & 29015 of 2017

COMMON ORDER

Since the issue involved in both the writ petitions is one and the same, they are being disposed of by this common order.

W.P.No.15253 of 2017 is filed by the Chairman of the Guntur District Co-operative Central Bank Limited, Guntur, who worked as such from June, 2008 to February, 2013, challenging the order dated 6.4.2017 of the 2nd respondent-Registrar of the Cooperative Societies giving directions to the several authorities while reviewing the report submitted by the Enquiry Officer under Section 51 of the Andhra Pradesh Co-operative Societies Act, 1964 (for short 'the Act').

W.P.No.29015 of 2017 is filed by the Co-opted Director of the same Central Bank, who worked as such during the said period challenging the report submitted by the 5th respondent under Section 51 of the Act and the consequential proceedings dated 6.4.2017 referred to above. He has also challenged the notice issued on 21.4.2017 by the 3rd respondent.

The facts of the case are that one Hareendranadh Chowdary, President of Rayapudi Primary Agricultural

Co-operative Society, Tullur Mandal, lodged a complaint on 30.08.2013 to the Lokayukta alleging certain irregularities committed in the 6th respondent-Bank. The Hon'ble Lokayukta directed the 4th respondent to make an enquiry on the complaint lodged by him. A preliminary enquiry was conducted and a report was submitted to the 2nd respondent on 11.8.2014. After the preliminary enquiry, the 2nd respondent by proceedings dated 22.10.2014 authorized the District Co-operative Officer to conduct enquiry under Section 51 of the Act into the constitution, working and financial position of G.D.C.C.B.Ltd., Guntur from 20-04-2005 onwards, after examining the complainant on oath with reference to the complaint lodged by him. After going through the report submitted by the District Co-Operative Officer, Guntur, to the Registrar of Lokayukta, the said order was modified by the 2nd respondent *vide* proceedings dated 22.12.2014, appointing the Joint Collector, Guntur, i.e., the 5th respondent as an Enquiry Officer to conduct enquiry under Section 51 of the Act. It appears that the 5th respondent conducted enquiry and completed the same on 17.11.2016. On 17.11.2016, he was transferred from that post and a new incumbent assumed charge. However, an order was passed on 18.11.2016 itself enlarging the

time for submission of the report for a period of four months by Memo dated 18.11.2016. It appears that the 5th respondent submitted his report on 31.3.2017. The said report was reviewed by the Registrar of Co-operative Societies and an order was passed on 6.4.2017, giving several directions to the concerned authorities as he noticed that the irregularities were to the tune of Rs.5,73,85,358-58 Challenging the said order dated 6.4.2017, W.P.No.14253 of 2017 is filed.

Learned counsel appearing for the petitioners submits that when the 5th respondent ceased to hold the post of Joint Collector on 17.11.2016, he could not have submitted a report on 31.3.2017 and hence, submission of the report is bad in law. He further submits that the District Collector is not competent to review the report submitted under Section 51 of the Act and hence, the order dated 6.4.2017 is liable to be set aside.

On the other hand, learned Government Pleader submits that in view of the extension granted on 18.11.2016 for submission of the report, when no further enquiry took place after 17.11.2016, submission of the report of the 5th respondent on 31.3.2017 is valid in law. He further submits that the District Collector is

competent to review the report as the Registrar of the Co-operative Societies and such power was conferred on him.

I have carefully perused the proceedings dated 18.11.2016. Though the 5th respondent was transferred from the post of Joint Collector without taking up any further proceedings in the enquiry that had already been completed, in view of enlargement of time, he is entitled to submit the report and accordingly, he has submitted the same on 31.3.2017. Therefore, on this ground the report cannot be held to be bad.

With regard to the submission made by the learned counsel appearing for the petitioners that delegation of power on the District Collector as Registrar of Societies under G.O.Ms.34 Food and Agriculture dated 18.1.1999 is invalid, is totally untenable. The enquiry revealed misappropriation of funds and serious financial irregularities to a tune of Rs.5,73,85,358-58, the details of which are mentioned in the order of the District Collector passed on 6.4.2017. When such serious irregularities were detected in the enquiry conducted on the basis of the complaint lodged before the Hon'ble Lokayukta, this Court cannot interdict further action pursuant to the report.

In view of the same, the Writ Petitions cannot be entertained on merits as well as on law.

Accordingly, both the Writ Petition are dismissed. No costs.

JUSTICE A.RAMALINGESWARA RAO

7th September, 2017
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