THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.12819 OF 2005

ORDER:

This writ petition is filed under Article 226 of the Constitution of India seeking the following relief:-

> "to issue a writ, order or direction more particularly one in the nature of writ of Certiorari after calling for the records relating to and connected with the proceedings in Rc.No.260/92-B dated 29-11-2004 of the respondent and to quash or set aside the same by declaring it as illegal, arbitrary and without power, authority or jurisdiction and also violative of the provisions of the A.P.Cooperative Societies Act, 1964 and also violative of principles of natural justice and Article 21 of the Constitution of India and to pass such other order or orders as it may deem fit and proper in the circumstances of the case."

2. It is stated in the affidavit filed in support of the writ petition that the petitioner is a permanent employee of the Indian Farmers and Fertilizers Cooperative Limited (IFFCO), a society originally registered under the Multi State Cooperative societies Act, 1942, which was repealed by the Multi State Cooperative Societies Act, 1984, which was again repealed by the Multi State Cooperative Societies Act, 2002. Initially, while he was working as Junior Field Officer at Mahaboobnagar, his employer placed him under suspension on certain charges and thereafter, without conducting any proper enquiry, dismissed him from service. Questioning the said illegal action and for other reliefs, he filed W.P.Nos.8984 of 1997 and 12021 of 1997 before this Court and the same are pending. While so, the respondent issued the surcharge order in

Rc.No.260/92-B, dated 29.11.2004, purported to be passed under Section 60 of the A.P. Cooperative Societies Act, 1964 for a sum of Rs.4,39,206/- with interest at 18% per annum. Challenging the same, the petitioner filed this writ petition.

3. When the matter is taken up for hearing, Sri Vedula Venkata Ramana, learned senior Counsel representing Sri Krishna Murthy Devarakonda, learned counsel for the petitioner, contended that under Section 60 of the A.P. Cooperative Societies Act, 1964, surcharge proceedings were initiated against the petitioner whereas the petitioner is an employee under the Multi State Cooperative Societies Act, 2002; that as the petitioner is an employee covered by the Multi State Cooperative Societies Act, 2002, any surcharge proceedings should be initiated on the basis of Section 83 of the Multi State Cooperative Societies Act; that though the provision under Section 60 of the A.P. Cooperative Societies Act is of the same nature, the procedure to be followed is under Section 83 of the Multi State Cooperative Societies Act; that already the authorities concerned have initiated action against the petitioner invoking the provision under Section 83 of the Multi State Cooperative Societies Act and hence, prays to allow the writ petition.

4. Heard and perused the material available on record.

5. Considering all the facts and circumstances of the case, this Court is of the view that the order under challenge is liable to be set aside on the ground that the surcharge proceedings against the petitioner have to be initiated only under Section 83 of the Multi State Cooperative Societies Act, 2002 and the action of the

respondent invoking Section 60 of the A.P. Cooperative Societies Act, 1964 is legally not valid.

6. Accordingly, this Writ Petition is allowed setting aside the order in Rc.No.260/92-B, dated 29.11.2004, passed by the respondent/Divisional Cooperative Officer, Wanaparthy, Mahaboobnagar District. There shall be no order as to costs.

7. Miscellaneous Petitions pending, if any, in this Writ Petition shall stand closed.

JUSTICE RAJA ELANGO

Date:15.09.2017
AMD

HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH
सत्यमेव जयते

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.12819 OF 2005

Date: 15.09.2017

AMD