

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN**

**AND**

**THE HON'BLE Ms. JUSTICE J. UMA DEVI**

**Writ Appeal No.1278 of 2017**

**Judgment:** (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal is preferred, by the petitioners in W.P. No. 25292 of 2017, against the order of the learned Single Judge dated 31.7.2017 directing the concerned District Fisheries Officers to conduct elections through its competent officers. Having noticed that the election process had already commenced, and elections were going to be held from 1.9.2017, the writ petition was dismissed.

The contention urged before us by Sri G. Vidya Sagar, learned Senior Counsel appearing on behalf of the appellants-writ petitioners, is that, after formation of the State, the Government of Telangana, in the exercise of its powers under Section 101 of the Andhra Pradesh Re-organization Act, 2014, had adopted the Andhra Pradesh Cooperative Societies Act, 1964 as the Telangana Cooperative Societies Act, 1964 (hereinafter called "the 1964 Act") subject to certain modifications including the amendment to Section 31-B by G.O. Ms. No. 53 dated 20.5.2016 with effect from 20.5.2016.

Section 31-B(a) stipulates that, notwithstanding anything contained in the 1964 Act, the Rules and bye-laws of the Society, the Government shall constitute a State Cooperative Election Authority to be headed by an Officer not below the rank of Additional Registrar, and to be assisted by not more than two Additional Cooperative Electoral Officers who are not below the rank of Joint Registrar of Cooperative Societies. Clause (b) of Section 31-B stipulates that the superintendence, direction and control of the preparation of electoral rolls, and conduct of all elections, shall vest with the State Cooperative Election Authority which shall conduct all elections in the manner

prescribed for all types of cooperative societies registered under the 1964 Act. Under the proviso thereto, the State Cooperative Election Authority, referred to in Clause (a) of Section 31-B, may issue guidelines otherwise laying down the procedure for conduct of elections from time to time.

In terms of G.O. Rt. No. 124 dated 7.3.2017, the Additional Registrar has been appointed as the State Cooperative Election Authority and two Joint Registrars have been appointed as Additional Cooperative Electoral Officers.

While Clause (b) of Section 31-B, no doubt, requires Rules to be prescribed for the conduct of elections, the proviso enables the State Cooperative Election Authority to issue guidelines from time to time; and, in the absence of Rules being made by the Government, it is for the State Cooperative Election Authority to issue guidelines regarding the manner in which elections are required to be held. The legislative mandate is for the constitution of a State Cooperative Election Authority under whose superintendence, direction and control, elections for all cooperative societies, within the State of Telangana, are required to be held. Consequently the letters of the District Fisheries Officer, Nalgonda dated 11.7.2017, and the District Cooperative Officer, Nalgonda dated 20.7.2017, directing elections to be conducted by the Assistant Registrars of the Fisheries Department, fall foul of Section 31-B of the 1964 Act.

While the 1964 Act obligates periodic elections to be held for cooperative societies, such elections can only be held by the authority constituted under the 1964 Act. It would be wholly inappropriate either for the authorities concerned or for us to confer power on an authority other than the one designated by the mandate of Section 31-B of the 1964 Act.

While the appellants have not chosen to array the Additional Registrar (State Cooperative Election Authority) and the two Joint Registrars (Additional Cooperative Electoral Officers) as respondents in the writ appeal, their failure to do so cannot result in elections being stalled indefinitely. The Additional Registrar (State Cooperative Election Authority) is suo motu impleaded as the 10<sup>th</sup> respondent in the writ appeal. He shall at the earliest, and in any event not later than six weeks from today, commence the process of holding elections to the Fisheries Cooperative Societies; and shall complete the process of elections within the stipulated time period.

The writ appeal is disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

**(RAMESH RANGANATHAN, ACJ)**

**(J. UMA DEVI, J)**

7<sup>th</sup> September, 2017

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