

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.26426 of 2017

ORDER:

Heard the learned Counsel for the petitioner and the learned Government Pleader for the respondents. Notice to respondent Nos.5 to 13 is dispensed with as they are not necessary parties for the relief sought in the Writ Petition.

The petitioner is the President of the fourth respondent society which was established on 14.02.1984. He was elected as such in the elections of the Managing Committee held in February, 2013. Though there was some dispute with regard to the construction of society building, since the present issue relates to the resignation of nine Directors, we are not concerned with the said dispute for the time being. Now it appears that respondent Nos.5 to 13 submitted their resignations to the third respondent through letters dated 12.06.2017 and sought supersession of the Managing Committee. After receipt of the same, the third respondent forwarded the letters of resignation to the Secretary of the society by letter dated 15.06.2017 for placing the letters before the Managing Committee of the society to take a decision under Rule 23AAA of the Andhra Pradesh Cooperative Societies Rules, 1964 (for short, the Rules). Respondent Nos.5 to 13 also gave a letter on 28.06.2017 to the Secretary of the fourth respondent society asking to convene the meeting. Now the meeting is scheduled to be convened on 10.08.2017 to consider the

resignations of respondent Nos.5 to 13. Challenging the communication of the third respondent dated 15.06.2017 and convening the meeting of the Managing Committee by the fourth respondent on 10.08.2017, the present Writ Petition is filed.

Rule 23AAA of the Rules reads as follows:

“23AAA: - (1) Notwithstanding anything contained in the bye-laws of the society, the President may resign his seat by sending a letter of resignation by Registered Post or by tendering it in person to the Registrar and such resignation shall take effect from the date it is accepted by the Registrar.

(2) The powers and functions of the President shall devolve on vice-president till election to the post of the President is held as per bye-laws.

(3) Notwithstanding anything in the bye-laws of the society, any member or members of the committee may resign their seats by sending a letter of resignation by Registered Post or by tendering it in person to the Chief Executive Officer/President of the society and such resignation shall take effect from the date it is accepted by the Managing Committee.

(4) In the event of absence of the President for more than a period of three months or death of President of a society, the powers and functions of the President shall devolve on the vice-president till election to the post of the President is held as per bye-laws.

(5) In the event of resignation of the entire Managing Committee or a majority of the Managing Committee, the Registrar of Cooperative Societies shall hold elections and till the new Managing Committee takes charge the Registrar may appoint person incharge or direct the Managing Committee to continue to discharge their functions till the elections are held and the new Managing Committee takes charge.”

It appears that there are thirteen Directors out of whom nine Directors submitted their resignation to the third respondent, who is the Deputy Registrar of Cooperative Societies in the instant case. If majority of the members of the Managing Committee resign, sub rule (5) of Rule 23AAA of the

Rules comes into operation, but not sub rule (3) thereof. In such circumstances, the third respondent shall satisfy himself with regard to the letters of resignation submitted by the individual members, and if he comes to the conclusion that majority of the members have submitted their resignation, he shall take action under sub rule (5) of Rule 23AAA of the Rules, and if he is satisfied that majority of the members of the Managing Committee have not submitted their resignation, then he has to follow sub rule (3) of Rule 23AAA of the Rules.

Now a communication is issued by the Secretary of the fourth respondent society to convene the meeting of the Managing Committee in order to accept the resignations submitted by the majority of the members and, as could be seen from the number of resignations available, such a situation is not governed by sub rule (3) of Rule 23AAA of the Rules. In view of the same, the Secretary of the fourth respondent society is directed to send the resignations to the third respondent, and the third respondent shall call individual members of the Managing Committee of the society and verify whether the resignations are genuine or not, and if he comes to the conclusion that majority of the members have voluntarily signed the letters of resignation, then he should follow sub rule (5) of Rule 23AAA of the Rules, and if he comes to the conclusion that majority of the members have not signed, then he should comply with sub rule (3) thereof.

In view of the above, the impugned communication dated 15.06.2017 and the proposed Managing Committee meeting on 10.08.2017 are set aside and respondent Nos.3 and 4 are directed to follow the above procedure in this regard.

The Writ Petition is, accordingly, disposed of. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

08.08.2017
vs



(A.RAMALINGESWARA RAO, J)