

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.33571 of 2017

ORDER:

The petitioner is an Ex-President of the fourth respondent Society and when the Managing Committee of the fourth respondent Society was superseded in exercise of powers under Section 34(1) of the Telangana Cooperative Societies Act (for short, the Act), the petitioner filed CTA No.22 of 2017 before the Cooperative Tribunal along with an application in I.A.No.48 of 2017 seeking suspension of the order dated 26.07.2017 superseding the Society. The appeal was filed on 07.08.2017 and when an order was passed by the Tribunal on 18.09.2017 in I.A.No.48 of 2017 dismissing the said application, the present Writ Petition is filed.

The Tribunal in its order, after recording that Section 51 enquiry was ordered on the basis of *prima facie* evidence, stated that the notices regarding supersession of the Managing Committee were served to all the Committee Members and the proceedings were finalized by following due process as laid down in the Act. Ultimately, the following reasoning was given for dismissing the application:

“On careful examination of the submissions made by both the parties, the decision of the District Cooperative Officer in ordering Inquiry u/s 51 after satisfying about the conditions prevailing shall be examined in the main appeal. However, for the reasons submitted by the respondents regarding misappropriation of the society amounts to the tune of Rs.8,32,000/-, meetings not being conducted as per the provisions of the TCS Act, non-maintenance of books of accounts and for not initiating steps to take up the audit

of the Society, the interim prayer for suspension of the impugned orders cannot be granted.”

The Tribunal should have seen that while considering an interlocutory application it has to see the *prima facie* case, balance of convenience and irreparable injury that is likely to be caused to the affected party in the event of not suspending the order. These factors have not been taken into consideration, but the Tribunal was carried away by the proceedings of enquiry under Section 51 of the Act. The Tribunal should have independently gone through the order dated 26.07.2017 in the light of Section 34 of the Act and recorded a *prima facie* finding with regard to the justification of passing the order superseding the Committee which was duly elected.

Since this Court is not satisfied with the reasoning given by the Tribunal, the Writ Petition is allowed with the consent of the learned Government Pleader at the admission stage and the impugned order is set aside. The matter is remanded to the Tribunal for fresh consideration and passing orders in accordance with law, within a period of two weeks from the date of receipt of a copy of this order after hearing the appellant and the respondents. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

09.10.2017
vs