

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

* * * *

Writ Petition Nos.28503 and 29037 of 2017

WP No.28503 of 2017

Between

Panguluri Srinivasa Rao @ Srinu

.... Petitioner

And

The State of Andhra Pradesh, rep. by its
Principal Secretary, Registration and Stamps Department,
Secretariat Building, Velagapudi, Guntur District and others.

... Respondents

JUDGMENT PRONOUNCED ON

: 04.09.2017

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO :

1. Whether Reporters of Local newspapers
may be allowed to see the Judgments? : YES
2. Whether the copies of judgment may be
Marked to Law Reporters/Journals? : YES
3. Whether Their Ladyship/Lordship wish to
see the fair copy of the Judgment? : YES

* THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

+ Writ Petition Nos.28503 and 29037 of 2017

% 04.09.2017

WP No.28503 of 2017

Panguluri Srinivasa Rao @ Srinu

.... Petitioner

Vs.

\$ The State of Andhra Pradesh, rep. by its
Principal Secretary, Registration and Stamps Department,
Secretariat Building, Velagapudi, Guntur District and others.

... Respondents

! Counsel for the Petitioners : Sri I. Koti Reddy

^ Counsel for the Respondents : GP for Cooperation
GP for Assignment

< Gist :

> Head Note :

? Cases referred:

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition Nos.28503 and 29037 of 2017

Common Order:

These two Writ Petitions are being disposed of by this common order, as they arise out of the same cause of action.

W.P.No.28503 of 2017 was filed by the Executive Member of Vagdevi Educational Society, whereas W.P.No.29037 of 2017 was filed by the President and Secretary of said Society against the same respondents.

The undisputed facts are that one Vagdevi Educational Society was registered under the Andhra Pradesh Societies Registration Act, 2001 (for short 'the Act') and there are 18 members including the petitioners and respondents 3 to 5. It appears that a general body meeting was convened on 17.01.2016, wherein a decision was taken to conduct elections to the Executive Committee in the month of February 2016. The said decision was a unanimous decision. A notice was issued on 02.02.2016 to all the members directing them to be present in the general body meeting to be held on 17.02.2016 for election of the Executive Committee. The petitioners state that in the said general body meeting all the 18 members attended and passed a unanimous resolution reelecting the Executive Committee. A copy of the resolution and other documents were sent to the second respondent. The second respondent appears to have not taken any action thereon, but raised some objections. In view of the objections, it appears that another requisition was sent to all the members on 21.11.2016 informing that a general body meeting would be convened on 05.12.2016. The said notices were sent by registered post. The respondents 3 to 5 and six (6) other members did not attend the meeting held on 05.12.2016. The agenda for the meeting was to file a

copy of the resolution dated 17.02.2016 and other documents to the second respondent. Since there was no quorum, the meeting was postponed to 06.12.2016, on which date also only nine (9) members out of eighteen (18) members were present. The nine (9) members who were present passed the resolution unanimously. Pursuant to the said resolution, the required documents were given to the second respondent and, when the second respondent did not take any action, W.P.No.3573 of 2017 was filed by the Society represented by the President. This Court disposed of the same on 07.02.2017 directing the second respondent to receive the list furnished by the petitioner Society and acknowledge the same as per Section 9 of the Act within a period of two weeks from the date of receipt of a copy of the order. Against the said order, an appeal was filed by the dissenting (non-attended) members by taking leave of the Court in W.A.No.1052 of 2017 and a Division Bench of this Court set aside the order and allowed the Writ Appeal. It appears that the President and Secretary of the Society filed a review application in WAMP No.2189 of 2017 and the same is pending.

In the meanwhile, it appears that the respondents 3 to 5 submitted another resolution to the second respondent alleged to have been passed on 06.12.2016 indicating that a new Executive Committee was elected. Alleging forgery of the signature of the petitioner, the petitioner filed W.P.No.28503 of 2017. It appears that the second respondent acknowledged the communication received by him from the respondents 3 to 5 pursuant to an alleged resolution passed on 06.12.2016. The petitioners in W.P.29037 of 2017 state that the respondents 3 to 5 and others have no right to convene a general body meeting because no requisition was given by the Secretary of the Society and they have no

right to move the 'no confidence motion' against the petitioners and other office bearers. Even otherwise also the alleged meeting said to have been convened on 06.12.2016 only with nine (9) members out of eighteen (18) members is devoid of quorum, as $2/3^{\text{rd}}$ members are required for holding a general body meeting. However, since the second respondent acknowledged the resolution dated 06.12.2016 submitted by the respondents 3 to 5 by his certificate dated 22.08.2017 the same is challenged in W.P.No.29037 of 2017.

Learned counsel for the petitioners submitted that the required quorum for holding a general body meeting is $2/3^{\text{rd}}$ members and in the absence of requisite quorum the respondents 3 to 5 could not have held a meeting and any resolution passed in such a meeting is invalid in law. He further submits that in view of the same, the second respondent should not have acknowledged any intimation pursuant to such resolution. But, the learned counsel for the petitioners forgot the fact that the postponed meeting conducted by the petitioner and seven (7) other members on 06.12.2016 also suffers from the same irregularity. Be that as it may, the point involved in the present Writ Petitions is not with regard to validity of the resolution but with regard to maintainability of Writ Petition.

Learned counsel for the petitioners, by relying on Section 8 of the Act, submitted that since the resolution was contrary to the provisions of the Act, the second respondent should not have accepted the same. This argument of the learned counsel for the petitioners is based on total misconception, as Section 8 of the Act deals with amendment of memorandum and bye-laws in respect of the matters specified therein. Section 8 of the Act reads as follows:

“8. Amendment of memorandum and Bye-laws: - (1) By a "Special Resolution" a society may alter the provisions of the memorandum with respect to,-

- (a) change of objectives of the society;
- (b) to amalgamate itself with any other society; or
- (c) to divide itself into two or more societies,

(2) Subject to the provisions of this Act, and the conditions contained in its memorandum, a society may, by an ordinary resolution passed by not less than 1/2 (half) of the members present and voting alter its bye-laws.

(3) Any alteration of the memorandum of the society shall not be valid unless such alteration is registered under this Act.

(4) If any alteration of the memorandum is filed with the Registrar and if they are not contrary to the provisions of this Act, he shall register the same and shall certify the registration of such alteration under his hand and seal within thirty days from the date of receipt of the resolution. The certificate shall be conclusive evidence that all the requirements of this Act with respect to the alteration and the certification thereof have been complied with and henceforth the memorandum as so altered shall be the memorandum of the society.

(5) Every alteration in the bye-laws of the society should be sent to the Registrar and he shall take it on record if it is not contrary to the provisions of this Act.”

Hence, a reading of the above provision makes it clear that the said Section is not applicable in the facts of the present case as only the intimation with regard to elected body is involved and there is no amendment to memorandum of the society or its bye laws.

What remains and argued in the earlier round of litigation is application of Section 9 of the Act and it reads as follows:

“9. Filing of annual list: - Every year the society shall, within fifteen days from the date on which the General Body meeting was held, furnish a list to the Registrar of Societies which shall contain the names and addresses of the members of the Managing Committee and Officers entrusted with the management of the affairs of the Society.”

A reading of the above provision makes it clear that it is only an intimation that has to be given by the Society and the Registrar has no role except to keep the said intimation in his record. No adjudication is involved. In view of the same, the action of the second respondent in

receiving the communication from the respondents 3 to 5 can only be stated to be purely ministerial in nature. Probably, in view of such a situation, learned counsel, now tried to place the present situation under Section 8 of the Act contrary to earlier stand and it is totally inapplicable to the preset case.

This type of cases are coming to this court quite often misconstruing the role of the Registrar under Section 9 of the Act. If the petitioners have any grievance against the respondents 3 to 5, it is for the petitioners to invoke Section 23 of the Act and settle their disputes. The dispute would be purely private in nature and no public law element is involved. They cannot invoke the jurisdiction of this Court under Article 226 of the Constitution of India and invite a decision of this Court. Hence, I am of the opinion that these are not fit cases for admission and are liable to be dismissed at the admission stage.

The Writ Petitions are, accordingly, dismissed at the admission stage. There shall be no order as to costs.

As a sequel thereto, the miscellaneous petitions, if any, pending in these Writ Petitions shall stand closed.

A. RAMALINGESWARA RAO, J

Date: 04th September, 2017
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