

**HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
HON'BLE Dr. JUSTICE SHAMEEM AKTHER**

WRIT APPEAL NO.506 OF 2017

JUDGMENT: (per Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the interlocutory order passed by the Learned Single Judge in WVMP No.678 of 2016 in WPMP No.47313 of 2015 in W.P. No.36738 of 2015 dated 17.02.2017.

The 1st respondent herein is the petitioner in the Writ Petition wherein he sought a mandamus to declare the action of the Managing Director, District Fishermen Co-operative Society, in issuing proceedings dated 27.10.2015, following the directions of the Assistant Director of Fisheries dated 26.10.2015, to conduct fresh elections to the post of the President of the District Fishermen Co-operative Societies Limited, though his five year term had not been completed, as arbitrary and illegal.

Initially an interim order was passed directing the respondent not to conduct elections to the post of President. Thereafter, on a petition being filed to vacate the interim order, the Learned Single Judge, in the order under appeal, observed that though the society had been in existence since 09.01.2015 till date, only once i.e., on 20.08.2009 was a sum of Rs.4,697/- given to the said society; and, on the basis of this small amount given to the society once in a period of 22 years, it could not be said that the Kurichedu Fishermen Cooperative Society was an aided society and, on that basis, to contend that the election held to the said society on 10.09.2015 was not valid, and the petitioner ceased to

be the President of the Society. The Learned Single Judge expressed his disinclination to vacate the interim order, and dismissed the WVMP. The Writ Petition was posted for final hearing in December, 2017. Aggrieved thereby the respondents in the Writ Petition have preferred this appeal.

Learned Government Pleader, appearing on their behalf, would contend that, in terms of Rule 22(1)(b) of the A.P. Co-operative Societies Rules, all societies, which are in receipt of State Aid under Section 43 of the Act, are required to be treated as Aided Co-operative Societies; what constitutes State aid to societies is enumerated in Section 43; in ground No.7 of this appeal, the respondents have stated that they have given the fishery wealth of irrigation tanks worth Rs.5 lakhs on lease for the past 20 years; the petitioners were benefited by paying only a nominal lease amount of Rs.10,000/-; and this was also clear evidence of direct aid to the respondent society.

Rule 22(1) relates to conduct of elections to Co-operative Societies and, under Rule 22(1)(b), in the case of societies that are in receipt of State aid as specified in Section 43 of the Act, the Registrar shall hold elections to them before the expiry of the term of the Committee subject to the provisions in the Rules. Only those societies, which are in receipt of State aid as specified in Section 43, would fall under the control of the Registrar with regards elections to be held to such societies. Section 43 of the A.P. Cooperative Societies Act relates to State Aid to societies, and enables the Government to provide aid subject to the Rules. Section 43 reads thus:-

43. State aid to Societies:— [Rule 34]

The Government may, subject to the rules,—

- (a) give loans or advance moneys to a society ;
- (b) subscribe to the share capital of a society ;
- (c) provide moneys to a society-
 - (i) for the purchase of shares of other societies ; or

- (ii) to enable it to provide moneys to another society to purchase shares in other societies ;
- (d) guarantee the repayment of principal and payment of interest on debentures issued by a society ;
- (e) guarantee the repayment of share capital of a society and dividends thereon at such rates as may be specified by the Government ;
- (f) guarantee the repayment of principal and payment of interest on loans and advance of moneys to a society ;
- (g) guarantee the repayment of deposits received by a society and payment of interest on such deposits subject to such terms and conditions as may be laid down by the Government ; and
- (h) give financial aid in any other form including subsidies to any society.

While giving fishery wealth in irrigation tanks is not among those items enumerated in Section 43, it is evident that this plea has not even been raised in the counter-affidavit filed before the Learned Single Judge. The *prima facie* conclusion of the Learned Single Judge that the subject society does not receive aid from the Government, justifying exercise of powers under Rule 22(1)(b), does not suffer from a patent error necessitating interference in an intra-court appeal under Clause 15 of the Letters Patent. The Writ Petition fails and is, accordingly, dismissed. Suffice it to make it clear that the Writ Petition shall be finally heard on its merits uninfluenced either by the interlocutory order passed by the Learned Single Judge or the order now passed by us in this appeal.

Subject to the aforesaid observations, the Writ Appeal fails and is, accordingly, dismissed. The miscellaneous petitions pending, if any, shall stand closed. No costs.

RAMESH RANGANATHAN, ACJ

Dr. SHAMEEM AKTHER, J

Date: 18.04.2017.

MRKR