

THE HONOURABLE SRI JUSTICE M.S.RAMACHANDRA RAO

WP.No.22167 of 2006

ORDER :

This Writ Petition is filed by the petitioners assailing the order dt.17.05.2006 in C.T.A.No.94 of 2003 on the file of the Andhra Pradesh Co-operative Tribunal, Warangal (4th respondent herein).

2. The 1st respondent is employed as Staff Assistant in the District Co-operative Central Bank (for short, 'DCCB'), Khammam.

3. The Joint Registrar – cum – District Co-operative Officer, Khammam passed an order under Section 60 of the Andhra Pradesh Co-operative Societies Act, 1964 (for short, 'the Act') in proceedings Rc.No.2770/2002-C dt.29.10.2003 holding that the 1st respondent is liable for a sum of Rs.3,78,483/- on account of sanction of certain *benami* loans along with other persons.

4. This was questioned by the 1st respondent before the Tribunal by way of an appeal. In the said appeal it was contended that the Joint Registrar – cum – District Co-operative Officer, Khammam had no jurisdiction to initiate surcharge proceedings under Section 60 of the Act in respect of a DCCB and that he had only jurisdiction in respect of Primary Agricultural Cooperatives like the 2nd petitioner-Society in his jurisdiction, and therefore, since the 1st respondent was an employee of the DCCB Khammam, the surcharge order passed by the

Joint Registrar – cum – District Co-operative Officer, Khammam is without jurisdiction.

5. This contention was accepted by the Tribunal and it held that the Joint Registrar – cum – District Co-operative Officer, Khammam had no jurisdiction to conduct enquiry under Section 60 against the 1st respondent, and such enquiry ought to be initiated and conducted by the District Collector, Khammam or by any other Officer; and even the Joint Registrar – cum – District Co-operative Officer, Khammam could have conducted the enquiry if he was specifically authorized for this purpose by the District Collector, Khammam.

6. However, the Tribunal, while allowing the appeal, set aside the impugned order passed by the Joint Registrar – cum – District Co-operative Officer, Khammam and set aside the surcharge order dt.29.10.2003 in Rc.No.2770/2002-C, but did not grant liberty for conduct of enquiry under Section 60 of the Act or the Rules framed thereunder against the 1st respondent by the competent authority.

7. Therefore, the petitioners have assailed the order dt.17.05.2006 in C.T.A.No.94 of 2003 of the 4th respondent-Tribunal specifically contending that while allowing the appeal filed by 1st respondent on the ground that the Joint Registrar – cum – District Co-operative Officer, Khammam had no jurisdiction to conduct enquiry under Section 60 of the Act against the 1st respondent, liberty ought to have been granted to the petitioners to get enquiry conducted under Section

60 of the Act by the competent authority, and that the Tribunal erred in not granting such liberty to petitioners.

8. Sri A. Suryanarayana, counsel for 1st respondent, does not dispute the legal proposition that if an authority passes an order without jurisdiction, while setting aside the said order the Court has ample jurisdiction to give liberty to the competent authority to take such action as is permitted by law.

9. In this view of the matter, the Writ Petition is allowed and the order dt.17.05.2006 in C.T.A.No.94 of 2003 on the file of the Andhra Pradesh Co-operative Tribunal, Warangal is modified and it is directed that while the decision of the Tribunal to set aside the proceedings in Rc.No.2770/2002-C dt.29.10.2003 passed by the Joint Registrar – cum – District Co-operative Officer, Khammam is correct, the Tribunal erred in not granting liberty to the competent authority to get an enquiry conducted against the 1st respondent by the competent authority under the Act or the Rules framed thereunder.

10. Accordingly, liberty is granted to the competent authority under the Act and the Rules framed thereunder to conduct enquiry under Section 60 of the Act against the 1st respondent in accordance with law within a period of three (03) months from the date of receipt of a copy of the order.

11. Accordingly, the Writ Petition is allowed to the above extent. No order as to costs.

12. As a sequel, miscellaneous petitions pending if any in this Writ Petition, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 01-08-2017

Ndr/*

