

HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

Writ Petition No. 19000 of 2017

Order:

Heard learned counsel for the petitioners and learned Government Pleader for the respondents 3 to 5.

The first petitioner is the Chairman of the first respondent Society who served the Society during the years 2005-2013. The petitioners 2 and 3 are the employees of the first respondent Society and retired from service. Pursuant to the summons issued by the third respondent, the petitioners appeared before the Enquiry Officer and he submitted his report on 23.05.2017. The said report is challenged in the present Writ Petition.

The enquiry into the affairs of the Society was ordered under Section 51 of the A.P. Co-operative Societies Act, 1964 (for short 'the Act'). The enquiry was not challenged at any point of time, but when the enquiry report was submitted, the present Writ Petition was filed challenging the findings going into the merits of the case running in twenty one (21) pages in the affidavit filed in support of the Writ Petition. Hence, submission of enquiry report cannot itself be called as bad and this Court cannot decide whether the findings of the Enquiry Officer are proper or not, since a separate procedure is contemplated under Section 51 of the Act. Section 51 of the Act provides that the report of the enquiry along with the findings shall be communicated to the managing committee of the Society by the Registrar and it shall be the responsibility of the managing committee to place the enquiry report before the General Body or Special General Body convened for the purpose of its information within a period of one month from the communication of the enquiry

report by the Registrar. The Registrar shall be competent to initiate action under the provisions of this Act, if the committee fails to take action as aforesaid. The proviso to said section enables the Registrar to take follow-up action on the basis of the enquiry report. But, the mere submission of the enquiry report by the Enquiry Officer, who was validly appointed, cannot be challenged in the present Writ Petition.

Learned counsel for the petitioners submits that the Enquiry Officer recommended civil and criminal action and it causes prejudice to the interest of the petitioners. He also relied on an order of this Court in W.P.No.15422 of 2007 dated 24.10.2008 and submitted that the very initiation of enquiry itself is bad. But, no such challenge is made in the relief sought in the present Writ Petition and, in any event, the enquiry was proceeded and action is yet to be taken on the basis of the enquiry report. Since the enquiry report was submitted to the Registrar, it is open to the petitioners to submit their representation, if there are any lapses in the process of conducting enquiry and it is for the Registrar to take action on the basis of the objections raised by the petitioners. But, at this stage, this Court cannot interfere with the report submitted, as separate procedure is contemplated under the provisions of the Act.

The Writ Petition is, accordingly, dismissed. There shall be no order as to costs.

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

A. RAMALINGESWARA RAO, J

Date: 10.08.2017
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