

THE HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

W.P.No.1420 of 2006

ORDER:

Heard Sri S.Satyanarayana Prasad, learned counsel, appearing for Smt. C.Sindhu Kumari, learned counsel for the petitioner and the learned Government Pleader for Cooperation appearing for the respondents.

2. This Writ Petition is filed by the petitioner assailing the order dt.19-11-2004 in O.P.No.25 of 2003 of the A.P. Cooperative Tribunal at Visakhapatnam.

3. The 1st respondent was registered under the A.P. Mutually Aided Cooperative Societies Act, 1995 on 08-07-1999. The Writ Petitioner-Federation filed O.P.No.25 of 2003 before the 3rd respondent-Tribunal to set aside the registration of 1st respondent and to dissolve the 1st respondent. The said petition was filed by the Industrial Relations Officer of the petitioner-federation.

4. Counter affidavit was filed by 1st respondent questioning the power of the Industrial Relations Officer to file the said O.P.

5. By order dt.19-11-2004, 3rd respondent-Tribunal held that the Industrial Relations Officer was not authorized to file the O.P.; that as per the bye-laws of the petitioner-federation, the Managing Director was alone authorized by the Board to sue; and he cannot delegate the power to sue to anybody without authorization from the

Board. On merits also the 3rd respondent-Tribunal considered the submissions of the petitioner-federation and the 3rd respondent-Society and held that the registration of 1st respondent-Society cannot be set aside and it is not liable to be dissolved.

6. Assailing the same, this Writ Petition is filed.

7. Sri S.Satyanarayana Prasad, learned counsel, appearing for Smt. C.Sindhu Kumari, learned counsel for the petitioner, contended that on account of administrative necessity, the Industrial Relations Officer was authorized to file the O.P. before the 3rd respondent and the affidavit was approved by the Managing Director of the Federation and therefore it cannot be said that the Industrial Relations Officer had no authority to file the O.P.

8. Bye-law 28.2.3 of the Bye-laws of the petitioner-federation extracted in the affidavit filed in respect of the Writ Petition states that the Managing Director of the petitioner-federation shall be the Officer to sue or to be sued on behalf of the Federation. Therefore only he can file the petition before 3rd respondent-Tribunal. The Managing Director of the petitioner-federation had not been authorized by the Board of petitioner-federation to delegate his power to sue to anybody else.

9. When the O.P. before the 3rd respondent-Tribunal is filed by the Industrial Relations Officer and not by the Managing Director and this objection about maintainability was specifically raised before

3rd respondent-Tribunal and no material is filed before 3rd respondent-Tribunal by the petitioner-federation regarding the authority of the Industrial Relations Officer to file the said O.P., the action of 3rd respondent-Tribunal in holding that the Industrial Relations Officer had no jurisdiction to file the said O.P., cannot be found fault with.

10. It is contended in the affidavit filed in support of the Writ Petition that the Managing Director approved the affidavit for filing before 3rd respondent-Tribunal in the said O.P. and that the Industrial Relations Officer only facilitated filing of the same before 3rd respondent-Tribunal as an authorized signatory. But mere approval of the affidavit by the Managing Director would not suffice and the O.P. ought to have been filed by him and not by the Industrial Relations Officer.

11. Therefore, I see no merit in the Writ Petition. It is accordingly dismissed. No costs.

12. As a sequel, the miscellaneous petitions pending, if any, shall stand closed.

JUSTICE M.S.RAMACHANDRA RAO

Date: 01-08-2017
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