

THE HONOURABLE SRI JUSTICE A. RAJASHEKER REDDY

W.P.No.31113 of 2017

ORDER

This writ petition is filed seeking to declare the proceedings Rc.No.231/2017-Credit, dated 06.09.2017 of the 3rd respondent as illegal and arbitrary.

2. The petitioner while working as C.E.O., in Primary Agricultural Cooperative Credit Society Limited, Mominpet, as regular employee, was issued with a show cause notice dated 21.04.2017 on the ground of certain cash irregularities. The petitioner submitted his explanation on 28.04.2017 to the 3rd respondent denying the allegations. The grievance of petitioner is that the 3rd respondent, without issuing any notice, suspended him from service by the impugned proceedings.

3. Learned counsel for petitioner submits that as per Section 59 of Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act'), the 3rd respondent has no power to suspend the petitioner, but he can direct the Committee to take decision in the cases of irregularity. He further submits that during the course of an audit under Section 50 of the Act or an enquiry under Section under Section 51 or any inspection under Sections 52 or 53 of the Act, if any misappropriation or breach of trust is found on the employee, the Registrar has to place the matter before the Committee for decision and as such, the impugned proceedings are without jurisdiction and in violation of Section 59 of the Act. Learned counsel

also submits that the petitioner has submitted a detailed reply on 28.04.2017 to the show cause notice, but without considering the same, the impugned order was passed. He relied on the judgment of this Court in **The Guntur Weavers Cooperative Production and Sale Society Limited rep. by its Directors V. The Assistant Director of Handlooms & Textiles, Guntur and others**¹.

4. On the other hand, learned Government Pleader for Cooperation appearing for respondents 1 to 3 submits that the Government of Telangana has modified Section 59 of the Act vide G.O.Ms.No.53 dated 20.05.2016 and as per the modification, the 3rd respondent has power to suspend the paid officer on preliminary enquiry submitted by an Officer not below the rank of Sub-Divisional Cooperative Officer and therefore, basing on the said report, the impugned proceedings were issued against the petitioner. He further submits that suspension is not a punishment and truth or otherwise of the allegations will be gone into after the enquiry to be conducted. He also placed before this Court a resolution with regard to handing over the records to the society as the petitioner is found absconding.

5. As per G.O.Ms.No.53 dated 20.05.2016, sub-section (1) of Section 59 of the Act is substituted as under:

“59. Suspension of officer or servant of society: (1) Where in the course of an Audit under Section 50 or an Inquiry under Section 51 or an Inspection under Section 52 or Section 53 or in a preliminary inquiry report submitted by an Officer not below the rank of Sub-Divisional Cooperative Officer, it is brought to the notice of the registrar that a paid officer or servant of a society has committed or has been otherwise responsible for misappropriation, breach of trust or other offence, in relation to the society,

¹ 1993 (1) An.WR 1

the registrar may, if in his opinion, there is *prima facie* evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interests of the matter, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him, but not retrospectively”.

6. In view of the aforesaid amendment, the petitioner cannot rely on the un-amended Section 59 of the Act and as such, the contention of petitioner that the 3rd respondent has no power to suspend him from service has no legs to stand since Section 59 of the Act specifically empowered the Officer to suspend the paid officer or servant when there is *prima facie* evidence against them. The judgment (1 supra) relied on by the learned counsel for petitioner pertains to the interpretation of Section 59 of the Act before its amendment, as such, it has no application to the facts of this case. Further, the impugned proceedings were issued based on the report of the Assistant Registrar on the allegations levelled against the petitioner.

7. In view of the aforesaid reasons, I find no merit in this writ petition. The Writ Petition is accordingly dismissed. No order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand dismissed.

A. RAJASHEKER REDDY, J

14th September, 2017

sj