

THE HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.26496 of 2017

ORDER:

Heard the learned Counsel for the petitioner and the learned Government Pleader for the respondents.

The petitioner is a Director of the fifth respondent Society. Elections to the Society were conducted on 18.02.2013 and he was elected as one of the Directors. The term of the Managing Committee is going to end on 17.02.2018. While so, pursuant to certain allegations of misutilization of the society funds, the second respondent ordered an enquiry under Section 51 of the Andhra Pradesh Cooperative Societies Act (for short, the Act) vide proceedings dated 12.06.2017 and appointed the fourth respondent as the Enquiry Officer. The Enquiry Officer commenced his proceedings and it is stated by the petitioner that he is now trying to fish out reasons to somehow or the other and submit an adverse report to displace the Managing Committee for extraneous considerations. In support of the said allegation, it is stated that summons were issued to the Election Officer and he is going into the affairs of conduct of elections, which were held in the year 2013. It is stated that the Enquiry Officer is going beyond the scope of enquiry. Challenging the proceedings of the second respondent dated 12.06.2017 ordering for enquiry under Section 51 of the Act and the action of the fourth respondent in conducting enquiry, the present Writ Petition is filed.

Though the learned Counsel for the petitioner submits that the second respondent is not having jurisdiction to order for enquiry, I am not satisfied with the said submission. Learned Counsel further submits that by issuing summons to the Election Officer, he is going

into the affairs relating to conduct of election, which he cannot do so under the provisions of the Act. I am not satisfied with the said submission also for the reason that he can submit a comprehensive report with regard to the affairs and misutilization of funds. But, by submission of the report, the elections cannot be declared as null and void. The enquiry is intended to enquire into the affairs and misutilization of funds of the fifth respondent society for which proceedings were issued on 12.06.2017. This Court is of the opinion that the fourth respondent knows the contours of enquiry as he is a Divisional Cooperative Officer.

In the circumstances, it is premature to think that an adverse order is being prepared by the fourth respondent – Enquiry Officer. Necessary freedom has to be given to the Enquiry Officer to conduct enquiry into the affairs and misutilization of funds. But, such freedom cannot travel beyond the scope of the provisions of the Act and the Rules framed thereunder. This Court does not see any *prima facie* case for entertaining the present Writ Petition.

The Writ Petition is, accordingly, dismissed. The miscellaneous petitions pending in this Writ Petition, if any, shall stand closed. There shall be no order as to costs.

(A.RAMALINGESWARA RAO, J)

08.08.2017
vs