

HONOURABLE Dr. JUSTICE B.SIVA SANKARA RAO

WRIT PETITION No.23687 of 2017

ORDER :

This writ petition is filed under Article 226 of the Constitution of India, seeking the following relief:

“..to issue a Writ of Certiorari other any other appropriate writ and quash the letter of the 2nd respondent in Rc.No.5378/ 2017/ Cr.2, dated 03.07.2017 and consequently direct the respondents not to interfere with the right of the petitioners to manage the affairs of the 4th respondent society, during their term of office (which is valid up to February, 2018) and grant such other relief as it deems fit in the circumstances of the case.”

Heard Sri V.Venkata Ramana, learned Senior Counsel for the petitioners and learned Special Government Pleader from the office of the Advocate General representing respondents and perused the prayer in the writ petition with supporting affidavit, the impugned letter dated 03.07.2017 in Rc.No.5378/ 2017/ Cr.2, and also the order of this Court dated 15.06.2017 in W.P.No.14733 of 2017.

Before answering the lis, the operative portion of the order dated 15.06.2017 in W.P.No.14733 of 2017, reads as under:

“15. Having regard to the above, it is suffice to say as laid down in the expressions supra that there is no consultation as contemplated by Section 34(6) of the Act of NABARD totally and there is no consultation as contemplated and required but for the propounded consultation from the show cause notice as discussed surpa. Thereby, the action of the respondents covered by the impugned proceedings is unsustainable and is liable to be set aside and this Court need not go in detail to answer several factual aspects, though factual aspects also can be gone into as per one of the expressions quoted supra in a writ petition. *Thereby, suffice without prejudice to the contentions of both*

parties on the factual aspects to agitate if at all such a necessity arises and the writ petition is allowed on that point alone. Needless to say, this order no way interdict the recourse of the respondents if at all to be taken statutorily.

16. Accordingly, the Writ Petition is allowed. No costs. Consequently, miscellaneous petitions, if any, pending shall stand closed.”

The last four paras of the impugned letter reads as follows:

“ Vide reference 4th cited, the OC and RCS furnished copy of the Inquiry Report along with Annexures to the RD RBI, CGM NABARD and MD TSCAB to provide remarks as part of the consultation process U/s.115-D and Section 34(6) of TSC Act, 1964.

Vide reference 5th cited, a consultation meeting was convened by RD, RBI and held at RBI, Hyderabad on 29.06.2017. During the said meeting the Inquiry officer explained the findings of the Inquiry and justification for the same to NABARD, RBI and TSCAB. After examining the entire record, the RD, RBI; CGM, NABARD and MD, TSCAB who were present in the meeting unanimously endorsed that it is a fit case for taking proper action against the Managing Committee of Warangal DCCB in accordance with the provisions of the Act and RCS was requested to proceed accordingly.

Vide reference 6th cited, MD, TSCAB (financing Bank) recommended for immediate action as per provisions of TSC Act, including supersession of the Managing Committee of Warangal DCCB U/s.34(6) of TSC Act, 1964.

In view of the above, the Inquiry Report in full along with Annexures containing depositions and other relevant material is being furnished to you as enclosure. Hence, you are hereby called upon to explain why the Managing Committee of Warangal DCCB cannot be superseded U/s.34 of Telangana State Cooperative Act 1964 on the basis of the findings of the Inquiry Report and recommendation of consultative committee meeting of TSCAB, NABARD and RBI. Your explanation should reach undersigned by 19.07.2017.”

In fact, the impugned letter dated 03.07.2017, admittedly, was served on 05.07.2017 and the time to submit explanation was fixed till 19.07.2017. However, without giving such explanation, the petitioners filed this Writ Petition on 17.07.2017, before expiry of the period of explanation. In fact, from the very reading of the impugned letter, though it is contended that it is as if a final notice and giving to the pre-explanation opinion to supercede, it

only mentioned the tentative action proposed to be taken that is supposed to be disclosed to meet by giving reply from the said impugned letter. Once such is the case, it is for the petitioners to give reply.

Having regard to the above, the Writ Petition can be disposed of by giving ten days time from the date of receipt of copy of this order to the petitioners to give their reply, raising all contentions, which are subject matter of the Writ Petition only in relation to the factual matrix with reference to the statutory requirements and there from the Authorities, on considering the same pass a reasoned order within a period of four weeks thereafter. It is needless to say, the order even passed finally, coming into operation, only from the date of service of the said order including from the Constitution Bench expression of the Supreme Court in *State of Punjab v. Amar Singh Harika*¹. However, after service of the said order, for a period of one week, no action shall be taken. In the meantime, the petitioners can work out their remedies, as per law.

Accordingly, the Writ Petition is disposed of.

Consequently, miscellaneous petitions pending, if any, shall stand dismissed. No costs.

Dr. B. SIVA SANKARA RAO, J

¹ AIR 1966 SC 1313

Date:20-07-2017
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