

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No.31380 OF 2016

ORDER:

Heard Ms.V.Uma Devi for petitioners, the learned Government Pleader for Cooperation for respondents 1 to 3 and Mr.Resu Mahender Reddy for respondents 5 and 6.

The petitioners pray for writ of certiorari to call for the records leading up to and inclusive of G.O.Rt.No.418 dated 24.08.2016 issued by 1st respondent, quash the G.O.Rt. and consequently pray for a direction to restrain the respondents from interfering with the functioning of petitioner society particularly, with reference to process of elections conducted in May,2016.

The 1st and the 2nd petitioners are the President and the Secretary of HAL Employees Cooperative Housing Society Limited, Himayathnagar, Hyderabad. The petitioners were elected to the posts of the President and the Secretary in the elections held on 01.05.2016. On 14.06.2016, respondents Nos.5 and 6 herein represented to Government complaining violation of provisions of the Cooperative Societies Act, 1964 (for short 'the Act') and mismanagement of affairs by person in-charge of the Society. Basing on the representation, the 1st respondent issued impugned G.O.Rt.No.418, Agriculture and Cooperation (coop-II) Department dated 24.08.2016. The operative portion reads thus:

"In the reference 3rd read above, not satisfying with the report of Commissioner for Cooperation and Registrar of Cooperative Societies, Telangana, Hyderabad Sri T.Narsing Rao, Ex-President, G.Ramavataram,

Ex-Secretary of the Hindustan Aeronautics Employees Coop. Housing Society Ltd., TBC 269 have made representation on the violation of provisions of Coop.Act,1964 by the Person in charge of the Society by mismanaging affairs of the society depriving the voting rights of legal heirs of members and transferees and requested to appoint Dr.N.Kiranmayee, as Inquiry Officer to find out the irregularities.

Government after careful examination of the issues, exercising powers under section 123 of Telangana State Coop. Societies Act, 1964, hereby appoint dr.N.Kiranmayee, Addl. Registrar as Inquiry Officer and Smt.P.Harini, Deputy Registrar to assist her in the process of inquiry U/s.51 of Telangana State Coop. Societies Act,1964 to enquire into the irregularities and mismanagement committed by the Official PIC during his tenure and directed the Inquiry Officer to submit inquiry report to Government directly within (60 days) with specific recommendation to take necessary further action.”

Hence the writ petition is at the instance of the President and the Secretary of HAL Employees Co-operative Housing Society. In other words, the aggrieved person viz., the 4th respondent is not assailing the legality of the G.O.Rt. dated 24.08.2016, but arrayed as one of the respondents in writ petition.

Learned counsel appearing for parties have canvassed several contentions both in support of and against the impugned G.O.Rt. During the course of submissions, the counsel for petitioners admits that the petitioners cannot be treated as directly aggrieved by the action initiating enquiry under Section 51 of the Act by 1st respondent, but the apprehension of petitioners is that in the working of impugned G.O.Rt., the enquiry proposed to be held

against the 4th respondent should not be expanded in such a way to interfere with the elections held on 01.05.2016 or the functioning of elected body.

The Government Pleader submits that the election is subject matter of an election petition already filed by the aggrieved persons and according to him, for all the acts of mismanagement allegedly committed by person in-charge, respondents 1 to 3 are competent to initiate action in the same way as the respondents would have initiated action against members of the managing committee in office. In other words, according to him, a person in charge for purposes of the Act discharges the obligation and duties of the managing committee. Therefore, the person in-charge must conform to the Act and a deviation by person in-charge certainly comes within the scope of Section 51 of the Act. The action under Section 51 of the Act and the further steps are governed by the statutory scheme of Cooperative Societies Act and it is for person in-charge to complain but not petitioners. Therefore, he submits that the apprehension of petitioners that the respondents are interfering with the society or the elections conducted on 01.05.2016 or the affairs of the society is unfounded. The statement of learned Government Pleader made on instructions is placed on record. The election of present body is the subject matter of election petition before the competent Court and it is for the competent Court to examine the legality of election etc. This Court is of the view that the petitioners have no locus to challenge the G.O.Rt. on the apprehension that the respondents are interfering

with the election or in the affairs of the society on the strength of G.O.Rt impugned in the writ petition. The statement of learned Government Pleader that the respondents do not propose to interfere in the day-to-day affairs of Society on the strength of G.O.Rt., but will enquire into the conduct of official person in-charge as per law, is placed on record and accepted.

With the above observations, the writ petition is disposed of.
No order as to costs.

Miscellaneous petitions, if any pending, shall stand closed.

Date: 17-01-2017

Sp



S. V. BHATT, J