

HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT PETITION No.22049 of 2017

ORDER:

The Writ Petition is filed under Article 226 of Constitution of India, for the following relief:

“...to issue a Writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings of the 2nd respondent vide 1739/E2/2017, dated 11.05.2017 under consequential notice of the 3rd respondent vide Notice No.20/B/2016 dated 23.05.2017 is bad, arbitrary and contrary to the provisions of the APCS Act, 1964 (TCS Act, 1964) contrary to all canons of law apart from violations of principles of Natural Justice and also offends Articles 14, 19 and 21 of the Constitution of India and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2) Heard learned counsel for petitioners, who are the presidents of different Fishermen Co-operative Societies registered under Telangana Cooperative Societies Act, 1964, as amended by State of Telangana by G.O. Ms.No.53 dated 20.05.2016 and also learned Government Pleader for Fisheries representing the respondents from the written instructions received from the 3rd respondent—District Fisheries Officer and perused the prayer in the writ petition with the support affidavit.

3) It is the supporting affidavit averment that despite Rule 22 of the Telangana Cooperative Societies Rules, 1964 (for short 'the Rules'), under APCS Act, 1964 amended as stated supra, provides for conducting of elections well in advance before expiry of tenure of existing duly elected committee, however, no

elections were conducted so far and apart from it, all the 12 petitioners among 33 cooperative societies, only one officer was appointed to manage the affairs of the co-operative societies though it is practically impossible for the so-called one person to manage the affairs while attending other regular duties, if any, and by impugning the same, for no other alternative, the petitioners are constrained to maintain the present writ petition.

4) It is also the submission that with reference to Sections 31 and 32 (7) of the Act by placing reliance on the expression of this Court in ***M.Janaki Ramulu vs Prohibition and Excise Supreintendent, Mahabubnagar and others***¹ in relation to Toddy Tappers Co-operative Society, Gadwal, registered under the provisions of the Act, where five members of the society were appointed as a Committee of Persons to manage the affairs after the cessation period of the elected society and the President of the said committee, whose tenure is to be seized when challenged, the Court observed ultimately from the allegations of misappropriation also they are against the ex-president and there is nothing even to show with reference to Section 31 of the Act to continue the earlier committee even after expiry of its tenure from any enabling provision of law, the appointment of committee of persons for the interregnum period before conducting elections and by relying on the submission that, instead of continuing 33 societies under one official, the desirability of appointing any members of the respective societies as committee of persons, as contemplated under Section 32 (1) of the Act has to be ordered.

¹ 2000 (5) ALT 89

5) As per the written instructions received by the learned Government Pleader, to commence the election process a letter was addressed by the District Fisheries Officer to the District Co-operative Officer, Nalgonda District, to conduct elections after obtaining approval of election authority i.e., District Collector and soon a notification is being issued for conducting of elections by appointing an Election Officer and elections are going to be conducted soon.

6) Having regard to the above submission and by recording the same, while observing that the District Collector is not made as a party to the writ petition being election authority pursuant to the letter dated 07.07.2017 of 3rd respondent addressed to the District Co-operative Officer with reference to memo of Commissioner of Fisheries, Telangana State, Hyderabad, vide memo No.1432/E2/2017, dated 30.06.2017 to appoint an Election Officer for holding the elections to finalise the voters list, if not already finalized, and complete the election process as contemplated by Rule 22 of the Rules, after finalization of eligible voters list by fixing dates for filing and scrutiny of nominations, depositing of security amount and also date for polling, counting and declaration of results and in the meantime, the respondents shall consider the desirability of appointing some other officers or individual persons as a committee, as contemplated by Section 32 (7) of the Act from among members of the respective societies to manage the affairs of the said societies.

7) Accordingly, with the above observation and direction, the Writ Petition is disposed of. Needless to say form

the direction to the District Collector to appoint an Election Officer, the election process shall be taken up by finalization of the voters list with no lapse of time by the Election Officer.

8) Consequently, miscellaneous petitions pending, if any shall stand closed. No costs.

JUSTICE Dr. B.SIVA SANKARA RAO

Date: 12.07.2017
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