

HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.787 OF 2018

ORDER :

This petition is filed for a writ of *Mandamus* declaring the action of the 3rd respondent in not providing all the relevant documents on which reliance is placed while issuing show cause notice in Rc.No.01/2017/Notice dated 06.10.2017 to the petitioner, as illegal and arbitrary and for a consequential direction to the 3rd respondent to provide all the relevant documents on which reliance is placed, to the petitioner.

Learned counsel for the petitioner submits that in pursuance of the impugned show cause notice the petitioner made representation for supply of relevant documents, but the 3rd respondent instead of providing documents passed a docket order dated 22.12.2017 informing the petitioner that a letter dated 25.10.2017 was addressed to CEO, DCCB, Warangal to provide required particulars/documents to the petitioner. He placed reliance on the Judgment rendered by this Court in ***Dappalapudi Purnachandra Rao v. Deputy Registrar of Co-op. Societies, Vijayawada and others***¹ wherein it is stated that a notice should indicate the charges levelled against the delinquent and the documents on which reliance is placed by the authority. He further submits that the impugned show cause notice does not indicate as to what are the documents on which surcharge authority placed reliance; and that in the

¹ 2017(2) ALT 264

absence of same, it is difficult for petitioner to submit explanation.

On the other hand learned Special Government Pleader appearing for the Additional Advocate General submits that if petitioner makes a representation as to what are the documents he need, the same will be provided. He also submits that the basis for issuance of show-cause notice is only enquiry under Section 51 of the Telangana Co-Operative Societies Act, 1964.

In this case it is to be seen that this Court in ***Dappalapudi Purnachandra Rao' s case (cited supra)*** at para-17 held as follows;

“17. The enquiry under Section 60 of the Act may visit the delinquent with penal consequences and it necessarily requires the observance of principles of natural justice. An element of adjudicatory function is involved in coming to the conclusion and it requires weighing of evidence and recording reasons for its conclusions. The above survey of the case law leads to the following conclusions:

- (i) A notice should be given to the delinquent clearly indicating the charges levelled against him and the documents on which reliance is placed.
- (ii) In case the Presenting Officer produces any oral evidence, the delinquent should be given an opportunity to cross-examine the said witness.
- (iii) The delinquent shall be given an opportunity to produce the oral and documentary evidence on his side.
- (iv) The process of enquiry shall not be elevated to the level of a judicial enquiry by applying the provisions

of C.P.C. and the Evidence Act, but should give a fair opportunity to both sides.

(v) The ultimate order of the enquiry officer should contain reasons for his conclusions and a copy of the same shall be communicated to the affected party.”

In view of the above, the surcharge authorities are directed to indicate what are the documents that are being relied on by them in issuing the impugned show-cause notice, thereafter, it is open for the petitioner to make necessary application to the surcharge authority requesting to supply the said documents, and on such application being made by the petitioner, the 3rd respondent is directed to supply the same and proceed with the enquiry there after.

Accordingly, the writ petition is disposed of. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending in the writ petition, shall stand closed.

A.RAJASHEKER REDDY, J

05.01.2018
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