

HON'BLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION Nos.18935 OF 2007, 20123 OF 2007, 27537 OF
2007, 34762 OF 2011, 6112 OF 2013, 32704 OF 2014, 36900 OF
2016 AND 19939 OF 2017

COMMON ORDER: *(Per Hon'ble Sri Justice S.V.Bhatt)*

The batch of writ petitions is directed to be listed together through our order dated 17.09.2018.

2. The writ petitions relate to various disputes concerning or in relation to the A.P. High Court Employees Mutually Aided Cooperative Housing Society Limited, Hyderabad (for short "Housing Society") and disputes *inter se* members on a few decisions taken in the administration of the Society, and another face of litigious approach is on the property allotted to the Housing Society in Survey No.25 of Gopanapalli Village. W.P. Nos. 18935, 20123 and 27537 of 2007 are filed by members of Housing Society and the disputes are brought to fore even before the alienation of land is confirmed or formalized. W.P.No.19939 of 2017 is at the instance of the Housing Society. W.P.No.36900 of 2016 is filed by one G.Devender, member of the Society, challenging the order dated 07.10.2016 of 2nd respondent appointing ad hoc committee to conduct elections for the said Society. The broad outlines of the prayers are prefaced to our order and at appropriate stage of this order, we would be adverting to the respective prayers and the averments therein to the extent required.

3. “Housing Society” is a society registered under the A.P. Mutually Aided Cooperative Societies Act, 1995 (for short ‘the MACS Act, 1995) with registration No. C/Hyd(U)/2003(34)/Hsg/MACS dated 29.07.2003. The members of Housing Society are the employees of erstwhile Andhra Pradesh High Court, Hyderabad and now employees of High Court of Hyderabad who have put in a minimum of five years of continuous service in High Court for enrolment as members of the Housing Society. The Housing Society at relevant point of time i.e. 2006-2007 had 1112 members on its rolls.

4. The then Government of A.P. in the year 1991 in principle agreed to allot land for allotment as house sites to NGOs, of an extent of Acs.427-00 of agricultural land to various employees’ organizations/unions in the Government sector. The employees of High Court were excluded from consideration and allotment of land along with or on par with the employees working in the Government. The employees of High Court filed W.P.No.15533 of 1992 complaining discrimination in allotment of land by the Government. W.P.No.15533 of 1992 was dismissed and the writ petitioners therein filed W.A.No.209 of 1993; a Division bench of this Court on 04.08.1995 passed the following order:

“In the result, the writ appeal is disposed of with the following directions:

- a) the 1st respondent-Government shall consider the claim and request of all the eligible State Government employees including the members of petitioners-appellants society for allotment of house plots in accordance with the guidelines

framed under G.O.Ms.No.633 dated 17.11.1992;

- b) the 1st respondent-Government shall also consider the claims and requests of all the eligible employees working in Judiciary i.e., the employees of the High Court and the employees of the Subordinate Courts located in twin cities and Ranga Reddy District;
- c) to consider the claims of all the employees working in the Legislative Department also in accordance with the terms and guidelines in G.O.Ms.No.633 dated 17.11.1992;
- d) We also make it clear that it would be open to the 1st respondent-Government to alter the guidelines in case of any necessity for the effective implementation of its policy in providing house plots to all the employees working in the State Government, Judiciary and Legislative Department;
- e) It is also open to the 1st respondent-Government to make any change or reconstitute the Committee already constituted in G.O.Ms.No.633 dated 17.11.1992 depending upon the exigencies of the situation and it would not preclude the Government to include the representatives of the petitioners-appellants society, if it so chooses; and
- f) There shall be no order as to costs.”

5. The order dated 04.08.1995 granted legitimacy to the claim of employees of High Court for consideration for allotment of land from out of the land already earmarked for allotment to various employees unions of Government. G.O.Ms.No.850 dated 24.09.1991 was issued allotting Acs.427-00 to the Government employees working in twin cities as well as adjoining Districts and Acs.50-00 for

housing for Government employees working in Hyderabad and Ranga Reddy Districts. The Government fixed the value of land at Rs.37,500/- per acre. The apex body constituted for distribution of Acs.427-00 decided to allot an extent of Acs.39-00 to the Housing Society. The said understanding of the apex body resulted in issuing Memo No.46111/Assn.-V (1) /2005-1 dated 30.11.2005 whereunder High Court employees Housing Society was allotted an extent of Acs.39-00 in Survey No.25 part 1 to 9.

6. There is no dispute that the members of Housing Society are 1112.

7. On 17.03.2004, the possession was also delivered in favour of the Housing Society by the Government. Erstwhile Government of Andhra Pradesh issued G.O.Ms.No.1357 Revenue (Assn.V) Department dated 10.11.2010 and directed that the Government land to an extent of Acs.39-00 in Survey No.25 part 1 to 9 at Kancha Gachibowli (V), Serilingampally Mandal be alienated in favour of Andhra Pradesh High Court employees Mutually Aided Cooperative Society Limited on payment of value of Rs.37,500/- per acre and also to charge 9% interest on the value from 17.03.2004 that is the date of handing over possession of land to Housing Society; special conditions and guidelines contained in G.O.Ms.No.242, 243 and 244, Revenue (Assn.I) Department dated 28.02.2005 and other usual conditions and in relaxation of condition regarding non-allotment of land lying within outer road stipulated in G.O.Ms.No.243 Revenue (Assn. I) Department dated 28.02.2005. There is no dispute on these

broadly stated circumstances including alienation of land with a few conditions,; delivery of possession etc.

8. The interesting part of the introduction to the batch of cases is that disputes have arisen between the members vis-à-vis Society; non-members vis-à-vis the society even before the land was allotted to the Housing Society. The bye law of the society was amended and registered on 28.06.2007, the members filed W.P.Nos.27537 and 18935 of 2007 questioning the amendment and the consequent registration of amended bye law through communication dated 28.06.2007 in Rc.No.1555/2007 MACS. It is matter of record that from 2007 till now, several writ petitions are filed by the employees of High Court who are members in Housing Society. The record discloses that writ petitions are filed as matter of course and with the confidence that the members of the Housing Society since are employees of the High Court, the other remedies available in law are not efficacious and, therefore, all sundry disputes or grievances need not be worked out by the member aggrieved by a decision of the society or by the authorities discharging duties and functions under the MACS Act, by straight away invoking the jurisdiction of this Court under Article 226 of the Constitution of India. With the above background, we prefer for convenience to take up the prayers in each one of the writ petition, examine their merit and record conclusions independently.

W.P. Nos.18935 of 2007 and 27537 of 2007:

9. The petitioners in these two writ petitions are members of Housing Society. The petitioners challenge the order of District

Cooperative Officer, Hyderabad (Urban) District/1st respondent registering the amendment suggested through resolution dated 04.05.2007 as illegal. The averments against registering the amended bye law is that the resolution dated 04.05.2007 which is the basis for proposed amendment would defeat the object of Housing Society. On 03.05.2007, notice of general body meeting on 04.05.2007 was issued without actually informing the details of proposed amendment to bye laws. The meeting was held, decisions taken and resolutions passed. There was no specific details or the agenda of meeting scheduled on 04.05.2007 and that without requisite quorum, resolution was passed amending bye law Nos. 2, 3(1) (b), (c), 3 (iii) (a) and (d). The amendment is made to deny the legitimate right of allotment of house sites to the members and at the same time to do undue favour to the members who own a plot or house in twin cities. The resolution dated 04.05.2007 is illegal for want of quorum and liable to be set aside. The proposed amendment is not in consonance with MACS Act and orders issued by the Government from time to time. The Housing Society has no power to amend the very object of the Housing Society. The object of the Housing Society is to provide houses or house plots to its members, irrespective of the fact as to whether the member owns sites or houses, a Society with such amended bye-law is not entitled to allotment of land from the Government.

9.1 The object of land by Government is to provide house or house plot to employees/members who do not own house or plot of different employees' societies.

9.2 The 2nd respondent Housing Society through its Secretary (Mr. Jayachandra Reddy) filed counter affidavit in W.P.Nos.18935 and 27537 of 2007. The Housing Society objects to the maintainability of writ petitions filed challenging the registration of amendment to bye law made through resolution dated 04.05.2007 without taking recourse to the remedies available under the MACS Act. The Housing Society refers to totality of circumstances under which an extent of Acs.39-00 has been allotted to 2nd respondent society, and that in the circumstances of the case, namely, the various orders issued by Government from time to time and that the Housing Society has enrolled from Registrar to last category/attenders working in the High Court service, subject to the said employee possessing five years of High Court service as on applicable date. The eligibility criteria for enrolment as member according to the registered bye laws of High Court Employees Housing Society, read thus:

“3.1 eligibility: a) Any employee of Andhra Pradesh High Court, Hyderabad and who is an approved probationer and who has put in minimum five years of continuous service.

b) who does not have house in area of Municipal Corporation of Hyderabad and its adjacent Municipalities in Ranga Reddy District is eligible to be a member of the society.

c) Where both the spouses are employees, only one of the spouses is eligible to be a member of the Society.

d) Persons those who are in accordance with the condition/conditions that may be stipulated/imposed by the Government shall be eligible to be a member of the society.

The Housing Society amended the bye law by following the procedure prescribed in this behalf. The decision taken by the general body binds all the members of the Society including the petitioners. The members have adequate remedy of raising a dispute against amendment of bye law etc. under Section 37 of the MACS Act. The Society through its general body decides what is in its interest or the interest of its members, but not for an outside agency to decide

9.3 According to Housing Society, general body meeting was called on 25.04.2007 through notice dated 04.04.2007 to consider the issue of amendment to the bye law. The general body was held on 24.04.2007 and was adjourned to 04.05.2007. On 04.05.2007, the general body was represented by 378 members i.e. more than the requisite quorum of 371. The communication dated 03.05.2007 to which reference is made in the affidavit is a reminder to the decision taken on 25.04.2007 to conduct general body on 04.05.2007, but not notice of general body meeting scheduled on 04.05.2007. The members have resolved to carry out the amendments and the decision was communicated to the Registrar for registering the amended bye law. The Housing Society contends that the challenge to the amendment or the communication of decision by the competent authority ought not to be considered by this Court under Article 226 of the Constitution of India. The present committee has filed counter affidavit in W.P. No.36900 of 2016 and keeping in view the stand taken therein at the end of the order, the objections raised, if necessary in these two writ petitions, could be considered.

W.P. No.20123 of 2007:

10. K.Daulath Kumar (Assistant Registrar) now retired from High Court service and 170 employees of High Court/ members of Housing Society are the petitioners. The petitioners pray for mandamus directing respondents 1 to 3 to monitor and take steps against respondents 4 to 6 i.e. Housing Society and its office bearers for allotting the land in deviation to the policy and eligible criteria contained in G.O.Ms.No.244 Revenue (Assn.1) Department dated 28.02.2005 of 1st respondent, and if necessary declare circular dated 28.08.2007 of respondents 5 and 6 providing the criteria for distribution of land as plots to members as arbitrary etc. The petitioners pray for consequential direction to implement G.O.Ms.No.244 Revenue, dated 28.02.2005 in allotment of house plots by respondents 4 to 6.

10.1 The averments in brief are that the 1st respondent/ Government allotted an extent of Acs.39-00 in Survey No.25 of Kancha Gachibowli Village of Gopanapalli, Serilingampalli Mandal, Ranga Reddy District on the basis of 600 (approximately) applications/ list of members submitted to the Government in the year 1996 by the High Court Associations. The land allotted by the Government will have to be developed and further allotted to the members as per Condition No.2 of Conditions for allotment contained in G.O.Ms.No.244 Revenue dated 28.02.2005. The land now allotted, if is insufficient respondents 4 and 5 are required to request for allotment of more land but not divide into plots the land already allotted, contrary to G.O.Ms.No.244 dated 28.02.2005. The petitioners aver that special general body

meeting was conducted on 18.08.2007 to discuss certain issues. It is complained that the Directors of respondent No.4/ Housing Society obtained signatures from the members, who attended the meeting, on two different papers without finalizing the minutes of meeting dated 18.08.2007. In fact, no decision was taken in the meeting held on 18.08.2007, but the then managing committee of 4th respondent manipulated the resolutions. Alternatively, the general body could not have passed resolutions contrary to Government Orders on the subject, more particularly having received land from Government under a Government Order, the Housing Society is required to implement the G.Os which have bearing on the topic. There is no communication of minutes of meeting held on 18.08.2007 to members within 30 days of the conclusion of the meeting as per Section 24(5) of the Act. On 27.08.2007, 212 members of 4th respondent society submitted representation to 6th respondent requesting respondents 4 to 6 to allot plots in accordance with the guidelines stipulated by G.O.Ms.No.244 Revenue dated 28.02.2005. Now, the grievance of the petitioners is that Housing Society categorized 1112 members into category-A consisting of Officers to Assistants and Category-B consisting of Record Assistants, Drivers, Attenders and other miscellaneous categories. The categorization of employees /members or allotment of house plots is contrary to G.O.Ms.No.244 dated 28.02.2005. The decision to allot 120 square yards to members falling under category-A and 100 square yards to members falling under category-B is illegal, irrational etc. In other words, the petitioners contend that the land should be divided as

plots and allotted according to the guidelines prescribed by G.O.Ms.No.244 dated 28.02.2005 by reference to the cadre of a member in the service of High Court etc. The operative portion of circular dated 28.08.2007 reads thus:

“With a view to accommodate as many members as possible in the available land, several alternatives were examined and plans were prepared. According to the norms prescribed by the HUDA no plot shall be less than 100 sq. yards and even such plots would be approved as Row Houses. Out of several alternatives, it has been proposed to allot plots of 120 sq. yards to members of category ‘A’ and plots of 100 square yards to members of category ‘B’. This proposal has been approved by the Special General Body of the Society in its meeting held on 18.08.2007.

After considering several alternatives a tentative layout is prepared carving out 478 plots of 120 sq. yards and 276 of 100 sq. yards. Still 200 members in category ‘A’ and 158 members in category ‘B’ remain to be provided plots. While keeping the efforts to secure land for them also, it is proposed to make provision for Flats for the remaining members. For this purpose an extent of 8282.95 sqm. at one place and 1997.38 sqm. at another place is earmarked. As soon as the Government allots the additional land, such members would be provided independent plots.

The allotment of the available plots would be in accordance with the seniority of respective categories in the High Court service. The allotment would also be subject to approval of layout by the HUDA.”

10.2 The society, through P.Jayachandra Reddy, the then Secretary, filed counter affidavit. For brevity, we do not refer to the undisputed circumstances on allotment land etc. The issue in the writ petition is categorization of officers and allotment of plots as per seniority in High Court, as contrary to G.O.Ms.No.244. According to 4th respondent society, it has included every

employee who has completed five years of service in High Court. On 18.12.2005, 4th respondent society had 1112 eligible members. The land of an extent Acs.39.00 allotted to High Court employees is insufficient for allotment as house plots to both categories of employees. Therefore, in the extraordinary special meeting conducted on 18.08.2007, it was resolved to allot 478 plots of 120 square yards to employees in Category-A and 276 plots of 100 square yards to employees of Category-B. An extent of 8282.95 square metres and 1997.38 square metres has been set apart for constructing flats (residential) to other members who could not be accommodated at that point of time. The plot size cannot and could not be less than 100 square yards, according to applicable Zoning Regulations. The decisions taken in the extraordinary special meeting held on 18.08.2007 have become final and are binding on all the members. No dispute is raised in accordance with the MACS Act. The Society contends that at the first instance the bye laws of the Society have been amended and approved through letter dated 28.06.2007. The society since has to allot land to as many members as possible, and a decision accordingly has been taken to accommodate plots to members within the means available in this behalf. The main contention is that the general body is the competent authority to decide the interest of the society and G.O.Ms.No.244 cannot be the basis when sufficient land is not allotted to Housing Society to conform in letter and spirit to the broad guidelines stipulated by G.O.Ms.No.244. The prayer to set aside the circular is untenable and he prays for dismissing the writ petition.

W.P.Nos.34762 of 2011 and 6112 of 2013:

11. These two writ petitions are at the instance of members of Housing Society. The petitioners challenge the G.O.Ms.No.12 Municipal Administration and Urban Development (M), Department dated 07.01.2011 permitting the 3rd respondent to allow 4th respondent/Housing Society to develop layout in the land allotted to 4th respondent Society, by permitting the internal roads of 6' width and also have plots less than 100 square metres area as illegal etc.

11.1 The operative portion of the Government Order reads thus:

"In the circumstances reported by Commissioner, Greater Hyderabad Municipal Corporation, Hyderabad, Government after careful examination of the proposal, hereby permit Commissioner, Greater Hyderabad Municipal Corporation, Hyderabad to allow 20'.0" (6.0 mts) wide internal roads instead of 40'.0" (12 mts) wide roads and also permit to have plots less than 100 sq. mts area instead of minimum of 100 sq.mts. in respect of proposed layout of A.P. High Court Employees Mutually Aided Co-operative Housing Society, Hyderabad in Sy.No.25 of Kancha Gachibowli Village, Serilingampally, Hyderabad to an extent of Ac.39.00 as a special case and as a goodwill gesture to the employees, subject to fulfilling all other terms and conditions in the matter as per rules."

The case of petitioners is that the one time relaxation on the width of road etc., in proposed layout granted to 4th respondent Housing Society is contrary to G.O.Ms.No.416 Revenue dated 18.03.2006 and also Revised Building Rules framed under the Hyderabad Municipal Corporation Act. The relaxation on width of internal roads and the minimum plot area in the proposed layout is completely illegal.

Therefore, the development plans submitted by 4th respondent society on the strength of relaxation granted through G.O. cannot and could not be processed by the authorities.

11.2 The 4th respondent through its Secretary P.Venkat Reddy filed counter affidavit and submits that the 4th respondent society with a view to accommodate the expectations of all the members i.e. on getting a plot from society without broadly deviating from the layout rules in the general body meeting held on 04.09.2011 resolved to change the width of internal roads from 20' to 24' and also to provide to members of A-Category plot of an area 105 to 110 square yards and to employees in B-Category plots of area 85 to 90 square yards and separate layout has been submitted to the competent authority for sanction. The 4th respondent society is not availing the relaxation provided in G.O.Ms.No.12 dated 07.01.2011. Therefore, the 4th respondent Society prays for dismissing the writ petition.

11.3. It is contextual to refer at the stage of the matter to the layout submitted and sanctioned pursuant to general body meeting dated 04.09.2011 could not also be taken to its logical end in spite of orders issued by this Court in W.A.No.260 of 2013. These details are referred to further appreciate that no stone is unturned by the members of 4th respondent to continue to maintain status quo on allotted land for one reason or the other. These circumstances snowballed into issuing order of resumption by the Government through G.O.Ms.No.102 Revenue (Assn-II) dated 15.06.2017.

W.P.No.32704 of 2014:

12. A.P. High Court Employees Mutually Aided Co-operative Housing Society Limited, represented by its Secretary G.Devender, is the petitioner. The petitioner prays for Mandamus declaring the action of respondents 2 and 4 in not registering the property to an extent of 39 acres in Sy.No.25/part 1 to 9 of Kancha Gachhibowli village, Serilingampally Mandal, Ranga Reddy District, in favour of petitioner Society pursuant to G.O.Ms.No.1357 dated 10.11.2010 as illegal and arbitrary.

12.1. After perusing the record in the instant writ petition, we are of the view that as the issues are considered on a larger canvas in accompanying writ petitions, separate reference to the averments in this writ petition is unnecessary, hence, not adverted to.

W.P.No.36900 of 2016:

13. Mr.G.Devender, an Assistant, working in the High Court of Judicature at Hyderabad, as member of Housing Society is the petitioner in this writ petition. The petitioner, as already noted, filed W.P.No.32704 of 2014 for a direction to respondents to register the land allotted in favour of the Housing Society.

13.1 The present writ petition is filed in his individual capacity as a member of Housing Society challenging the order Rc.No.36/2011-MACS dated 07.10.2016 of the Registrar of Mutually Aided Co-operative Societies/District Co-operative Officer, Gruhakalpa Building, Hyderabad-2nd respondent constituting ad hoc board for conducting elections to the 3rd respondent Society and the consequential election notice issued by 4th respondent/Election

Officer dated 22.10.2016 proposing to conduct elections on 05.11.2016 as illegal, arbitrary and without jurisdiction.

13.2 The deponent of the writ petition while filing W.P.No.32704 of 2014 either tacitly admits the existence and continuance of 3rd respondent Housing Society under the MACS Act, 1995 and its entity as such, and in the present writ petition raises diametrically opposite ground. There is no prohibition in law for raising a legal plea. However, these minor details are noticed by the Court to appreciate the purpose and procrastination or stalemate introduced by the members into the pragmatic working of Housing Society by filing various writ petitions. Be that as it may, the case of deponent is that the 3rd respondent Society was formed on 28.07.2003 under Section 5 of the MACS Act. Through the Government Memos and Orders, referred to above, an extent of 39 acres of land has been demarcated and allotted to 3rd respondent Housing Society.

13.3 Section 23 of the MACS Act envisages conduct of elections. Section 23(3) provides for, in the event of default by the Managing Committee to conduct elections, suo motu constitute ad hoc Board for the specific purpose of conducting elections.

13.4 With effect from 02.06.2014, the A.P. Re-organisation Act, 2014 (for short 'Reorganisation Act') came into force. The composite State of A.P. was bifurcated into residual State of A.P. and new State of Telangana.

13.5. Section 101 of Re-organization Act, 2014 empowers a new State i.e., State of Telangana to make such adoptions and modifications of any law made before 02.06.2014 by the composite

State. The 1st respondent/State of Telangana through G.O.Ms.No.28 dated 19.04.2016 adopted the MACS Act, 1995 with amendments and modifications. Through modification/amendment of G.O.Ms.No.28, Section 2-A of the MACS Act has been substituted by other definitions and Section 2(d) has been modified. The modified/amended Section prohibits raising share capital from Government and the Societies, who take benefit from the Government shall be treated as a Co-operative Society. Therefore, the 3rd respondent Society, which has received land from the erstwhile composite State is covered under the Telangana Co-operative Societies Act, 1964. The 2nd respondent, hence, does not have jurisdiction to pass order under Section 23(3) of the MACS Act, 1995, for the 3rd respondent Society now comes under the definition of Co-operative Societies. Therefore, the constitution of ad hoc committee and conducting elections are illegal and without jurisdiction.

13.6 The affairs of Housing Society and the spate of grievances are resulting in filing of writ petitions, police complaint, registration of criminal cases and these skirmishes are substantially happening within the premises of High Court building, where a room was allotted for convenience to be used as office by 3rd respondent/Housing Society. These commissions and omissions are brought to the notice of the High Court administration on administrative and judicial side. After taking stock of entire situation and the manner in which a few members of the Society, how the discipline on the premises of the High Court buildings is being affected on the administrative side, one of us (Hon'ble HCJ), has taken disciplinary

action an over enthusiastic member of the Housing Society. It is noticed that a spate of writ petitions are entertained on various issues, unless and until these writ petitions are decided and taken to logical end, the working atmosphere amongst employees is adversely affecting and the working hours are utilized for canvassing the divisive causes to which a few employees are deeply wedded with. Such atmosphere is not congenial to any Institution particularly an institution which is meant for administration of justice, enforcement of rights and resolution of disputes of the parties. Therefore, through our order dated 17.09.2018, we directed the Registry to list the following writ petitions together.

The order reads thus:-

“These two writ petitions relate to Andhra Pradesh High Court Employees Mutually Aided Co-operative Housing Society Limited, High Court, Hyderabad, which is a cooperative society.

To our query, the learned counsel appearing for the different parties before us submit that there are different litigations in relation to that society probably, primarily, precipitating out of factional feud and also on conflicting claims inter se the members. There is also a particular group of litigations which relate to allotment of the land made by the Government.

In the interest of the members of the aforesaid co-operative society and in the larger interest of this judicial institution itself, within whose premises the office of the society is housed as of now, we are of the firm view that the continued litigation in relation to the society before us is not conducive to the proper management of the affairs of that society, as well as due utility of the premises of the office of this Court where large number of members of the society work during day time. Their official time is to be utilized for the official work. We cannot permit the administrative work and judicial work of this Court being hampered by the members of the society utilizing the

time off from their official work, even clandestinely, to involve in different controversial matters touching the society. Therefore, in the larger public interest as well, the affairs of the society have to be set right if possible; otherwise, this Court has to see whether there could be due modality of liquidating the problems, once for all, in the larger interest of the society as may be found necessary.

We therefore direct the Registry to list up all the matters which are pending before this Court in connection with the afore-noted, as a bunch, on 19.09.2018.

The learned additional Advocate General for the State of Telangana is hereby requested to assist this Court along with the learned Government Pleader for the State of Telangana. The learned Additional Advocate General will also place before us a panel of three (3) senior officers of the Co-operative Societies Department not below the rank of Joint Registrar and also another panel of three (3) officers not below the rank of an Auditor from the same Department. This will enable this Court to pass appropriate orders if it is found necessary to have such officials with expertise to assist this Court not as statutory authorities or Government officials, but as persons under the control and command of this Court, in assisting the adjudicating process.

Post on 19.09.2018 along with W.P.Nos.18861, 18811, 18851, 18935, 18910, 20123 of 2007; 36220 of 2016 and 37093 of 2016, 19939, 39470, 35286, 36375, 41580 of 2017; 12135, 10482, 12673, 13297, 13772 and 4333 of 2018; C.C.Nos.2029 of 2017 and 1148 of 2018: along with other connected matters, if any.”

13.7 The writ petitions were listed on 27.09.2018 and after hearing the counsel appearing for parties, the following order was made.

“This bunch of writ petitions relate to the High Court Employees Mutually Aided Cooperative Housing Society Limited (hereinafter referred to as, the Society), which was registered under the then Andhra Pradesh Mutually Aided Cooperative Societies Act, 1995 (for short, the

Act). Such reference includes reference to the modifications that have come to that piece of legislation as a result of the reorganization of the State of Andhra Pradesh as per the Andhra Pradesh Reorganization Act, 2014 (for short, the 2014 Act).

2. The members of the Society are past or present employees of the High Court at Hyderabad, which, as of now, is the High Court for the States of Telangana and Andhra Pradesh in terms of Section 30 of the 2014 Act.

3. The Office of the Society functions within the premises of the High Court at Hyderabad, a room and attendant facilities having been permitted to be used from time to time. Obviously, that was a measure in support of the Society which stood to coordinate the requirements of the collective existence of the community of the staff of the High Court at Hyderabad on co-operative principles.

4. Disputes cropped up between the members of the Society with the passage of time. The chequered history of the controversies could be traced to the different materials among these cases. On and after the commencement of the operations of the Society sometime in 2013, there were two statutory audits under the provisions of the Act. It is also submitted by the learned counsel for some of the parties that the audit objections were rectified through the General Body decisions of the Society; however that, the Registrar of Cooperative Societies or nominee moved the jurisdictional Tribunal challenging such a decision or decisions. However, the institution and pendency of such proceedings before any Tribunal is disputed by the learned counsel appearing for the rival group, during submissions.

5. Suffice to note at this stage, that, in the recent past, the Society had an Adhoc Committee. Election followed. The Committee so elected has assumed office. However, such election and holding of assumption of office was regulated by an earlier order issued in one of these Writ Petitions to the effect that the election may go on, however, that such action will be subject to further orders of this Court. Therefore, holding of office by the newly elected Committee is, obviously, subject to these proceedings.

6. Some of the Writ Petitions in hand relate to the appointment of the Adhoc Committee as well as the consequential elections, including the exclusion or inclusion in the voters list. There are certain other Writ Petitions relating to the Society which are tagged along. But, fundamentally, the issue is the controversy between different groups of members. That is counter productive to the very intention and object for which the Society has been constituted.

7. It is a matter of record that the Government had provided land for the Society for housing purpose, to be utilized for the benefit of the members, who are High Court employees. That event happened in the year 2004. Later, the Government of Telangana has withdrawn that proposal and cancelled the allotment. That stands stayed by this Court through an interlocutory order in one of the Writ Petitions in this bunch.

8. The fact of the matter remains that after the two statutory audits in terms of the Act, there was no further audit in terms of any statutory provisions. It is submitted by the learned Special Government Pleader for the Department of Cooperation that efforts by the statutory authorities were always **opposed** tooth and nail by the rival groups and this has led to a stalemate even in matters relating to, control, audit, enquiry, investigation etc.

9. Primary, we see that the issues between the parties and the never ending controversies regarding corruption and abuse of movable and immovable wealth would come to rest only if there is a comprehensive audit into the accounts of the Society, liabilities, expenditure etc., as is to be done in terms of due principles of financial audit. In this view of the matter, we also take into consideration that there is the interest of sizeable number of employees in the High Court, who are members of the Society, which also get intertwined in matters relating to the Society. That apart, this Court has noticed the fact that the controversies between the members of the Society have adversely affected the fraternity and comity as well as the equilibrium to the maintained among its employees, in the premises of this High Court. The Chief Justice being a constituent of this Division Bench hearing

these writ petitions, we are also aware that the disputes and controversies between the groups of members of the Society, who include present employees of the High Court, also has the tendency to spill over to such extent that it leads to disruption of the smooth functioning of the activities in the premises of the High Court and that at least one individual employee, as of now, is under suspension and pending consideration for initiation of enquiry proceedings in relation to such conduct, which has also led to a complaint being placed before the jurisdictional police.

10. In the prevailing situation regarding the affairs of the Society and on a comprehensive consideration of the factual matrix relating to the management of the Society and the legitimate interest of all its members, we are of the firm view that this is a case where it would not suffice the situation that the parties are relegated to further proceedings or fresh proceedings before any authorities under the provisions of the Act. It would also not be sufficient for us to rest assured that actions which have already been taken or which would be taken under the Act would be sufficient enough to restore the Society to its requisite level so that it goes forward discharging its duties and obligations in terms of the purpose of its incorporation and registration.

11. Taking all the relevant facts, factors and circumstances into consideration and in the best interest of congenial administration of the premises of the High Court at Hyderabad, it is necessary that the controversies between the parties, the members of the Society and the statutory authorities under the Act, who are parties to these Writ Petitions, also touching the premises within the High Court building, needs to be liquidated through modes which ought to be resorted to in the extraordinary situation which we have noticed. We are hence inclined to exercise the extraordinary jurisdiction under Article 226 of the Constitution of India in relation to the facts of the case in hand which need a wholesome consideration from different angles to reach at requisite conclusions.

12. Having bestowed our anxious consideration to the different aspects available on the materials on record and also after the Chief Justice and his companion Judge

constituting this Bench have visited the premises of the Office of the Society, which is within the High Court at Hyderabad, such premises being under the administrative control of the Chief Justice of this High Court, we think that the situation cannot be left on the premise that alternate remedies are available.

13. In the light of the aforesaid, we are of the view that it is just and convenient; and, in the better interest of the administration of the Society, it is necessary that the said Society, as an Institution, is brought under the custody of this Court for requisite control and to ensure its stability following appropriate audit, including financial and performance. We have also taken into consideration the fact that the proposal to have such a procedure has been accepted by all parties to these litigations in the best interest of the Institution (Society) and its members. Now, what remains is the question of management of the accounts and also ensuring a clear and complete audit facilitating due process of financial audit. None of the parties before us having raised any objection to the appointment of Sri C.Sayappa, Joint Registrar of Cooperative Societies, who is the District Cooperative Officer, Ranga Reddy District; Smt.R.Sangeetha, Deputy Registrar of Cooperative Societies, who is the Audit Officer, O/o. the District Cooperative Officer, Hyderabad District, and Smt.D.Vijaya Lakshmi, Deputy Registrar of Cooperative Societies, who is the Audit Officer, O/o. the District Cooperative Officer, Medchal Malkajgiri District, who will carry out the audit as may be guided by a team of Advocates, who are also Chartered Accountants, namely, Advocate Sri Vedula Srinivas, and Advocate Ms.S.Mamatha. We have taken cognizance of the fact that Advocate Sri Vedula Srinivas had appeared in one matter touching the Society at an earlier point of time and that said litigation no more continues to survive. We have the confidence that as Officer of the Court in terms of this order he would discharge his duties and responsibilities appropriately. We also clarify that the audit that is required is not to be merely guided by the rules regulating the audit in terms of the Act, but would be guided by such principles of financial audit and clarifications that may be given by the Advocates

Chartered Accountants who are so appointed hereby as Court Supervisors. The remuneration for the work done by the Court Supervisors and also the Departmental Auditors will be decided through separate orders with the passage of time.

14. Therefore, it is ordered that :-

(i) The Andhra Pradesh High Court Mutually Aided Cooperative Housing Society Limited, with Registration No.REGD.AMC/HYD(U)/2003-(34)/Hsg/MACS, is hereby placed in custody of this Court. Such custody of this Court shall be exercised through the control of the Chief Judge of the City Civil Court, Hyderabad. The day to day control of that Society, its assets and other matters shall be regulated by that Officer, who is hereby authorized and directed to do so. That Officer is authorized and directed to have the management guided through the Administrative Officer of the City Civil Court, Hyderabad.

(ii) The Chief Judge of the City Civil Court shall take over possession of the office with all files including accounts and computer systems and all other movables in as is where is in condition and have it regulated in terms of what is stated hereinabove. We record that the Office of the Society now remains locked and that shall be opened only in the presence of the Administrative Officer of the City Civil Court, Hyderabad, for the purpose of handing over to that Officer in terms of this order.

(iii) The operation of the bank accounts would, for the time being, stand freezed, except to the limited extend of payment of emoluments to persons who are on the regular rolls of the Society in terms of the acquittance roll. Such payments shall be as duty authorized by the Administrative officer, City Civil Court, Hyderabad.

(iv) The Chief Judge will also take over possession of the subject land (allotted by the Government) through the Administrative Officer and ensure that it is controlled appropriately under the Court custody. The Chief Judge will be at liberty to utilize the services of staff under her command to assist further process in terms of the directions contained herein.

(v) An audit of the accounts of the Society from its inception till date is hereby ordered to be conducted by the audit team, which is hereby constituted. Sri

C.Sayappa, Joint Registrar of Cooperative Societies, who is the District Cooperative Officer, Ranga Reddy District; Smt.R.Sangeetha, Deputy Registrar of Cooperative Societies, who is the Audit Officer, O/o.the District Cooperative Officer, Hyderabad District, and Smt.D.Vijaya Lakshmi, Deputy Registrar of Cooperative Societies, who is the Audit Officer, O/o.The District Cooperative Officer, Medchal Malkajgiri District, shall carry out the audit under the guidance, control and direction of Advocate Sri Vedula Srinivas and Advocate Ms.S.Mamatha. Advocate Sri Vedula Srinivas will be the Chairperson of the said Audit Team. Such audit shall be guided not only by the rules regulating audit in terms of the Act, but would also be guided by such principles of financial audit as would be guided, directed and clarified by the Advocates Chartered Accountants who shall be the Court Supervisors appointed as such hereby.

(vi) For the purpose of conducting audit in terms of what is directed above, it is necessary that the accounts and other files and records of the Society are made available to the Audit Team, which consists of the aforesaid five persons in terms of what is stated above.

(vii) The Committee now in the Office will handover the entire records as available with it to the Chief Judge. The officials of the Cooperative Department will make available any records which may be available with them, including the previous accounts, even if they are with the Auditors, to the Chief Judge. The past members including the past office bearers will make available such records, if any, as available with them to the Chief Judge. All those records will be made over by the Chief Judge to Sri Vedula Srinivas, the Chairperson, for further action by way of audit.

(viii) The Chairperson of the Audit Team is hereby authorized to issue notices calling upon the parties for production of any records, accounts, acquittance register of the Society and all other materials in relation to the Society as may be found necessary by the said Chairperson for the purpose of conducting the audit.

(ix) It is clarified that the two audit reports which are stated to have already come under the provisions of the Act and any further proceedings based on such

records, including the criminal proceedings, which are stated to be pending, will not be affected by the audit which is ordered hereinabove and that the parties will be entitled to take requisite plea by way of assertion, denial or defence in appropriate jurisdictions independently.

(x) It is clarified that the aforesaid process of audit and the resultant report as well as any failure to provide requisite records would, by themselves, be available for further consideration for issuance of orders or enquiry, investigation as well as prosecution in terms of the different provisions of law, including the penal laws.

(xi) The petitioners are given liberty to file chronology of events from the date of issue of G.O.Ms.No.244, dated 28.02.2005, subsequent resolutions passed by the Society, various steps taken for converting the land into a layout, allotment, if any, etc., for consideration, on the next date of hearing.

(xii) It will also be open to the Chief Judge or the Chairperson of the Audit Team to seek any clarification as may be required from time to time from this Court.

Post on 31.10.2018.

Issue a copy of this order to the Chief Judge, the Administrative Officer and all other officers appointed by this Court in this order.”

13.8 Thus, the first inoculation is administered to the Housing Society and its enthusiastic members and thereby the situation has been substantially brought under control of the High Court, both on administrative and judicial side.

13.9 On previous occasion, some of the writ petitions have been either dismissed or dismissed as withdrawn by the petitioners.

13.10 After considering the divergent reliefs for which these writ petitions are filed, we have grouped the writ petitions by referring to the similarity of prayer for which the writ petitions have been filed by petitioners. The writ petitions are heard and disposed of, however, by separate findings through this common order.

13.11 The 3rd respondent Society is now represented by the President elected in the election held on 05.11.2016. The 3rd respondent files counter affidavit through its President P.Hari Krishna Reddy. The Court, since has impleaded all the ex-members of the Managing Committee separate counters are filed explaining the state of affairs in the 3rd respondent Society and their reply on alleged acts of commission and omission vis-à-vis. the affairs of the Housing Society.

13.12 The present Committee claims to have assumed office on 07.11.2016. The batch of writ petitions inter alia introduces challenge to the steps initiated by the present Committee for obtaining a revised layout which according to present managing committee conforms to the building regulations/layout regulations in vogue. We deem it appropriate to refer to the said stand introduced by the newly added respondent, including the 3rd respondent Society in a very brief manner. The 3rd respondent, on 19.08.2006, issued Circular stating that the 3rd respondent Society decided to enrol staff members, who have completed five years of service as on 18.12.2005 as primary members. Thus, the enrolment of members is 1112.

13.13 On 28.08.2007, after considering several alternatives, tentative layout was prepared carving out 478 plots of 120 sq. yards and 276 plots of 100 sq. yards each for allotment to the members now categorized as 'A' and 'B'. This could not be successfully operated for reasons which are briefly adverted to in the preceding Paras.

13.14 The Managing Committee in office in terms of Resolution dated 22.07.2017 passed by the General Body approached GHMC for permission to make construction. The Chief City Planner, GHMC vide proceedings No.69513/14/22/2011-18/399 dated 14.05.2018 informed the rejection of renewing the tentative layout. The Managing Committee in the meeting held on 01.06.2018 resolved to submit a revised layout along with the building plans for finally distributing to the members. The 3rd respondent approached GHMC with a proposal to carve out a plot of 74 sq. yards to Class-IV employees. The GHMC officials expressed considering layout with such plot dimension is not feasible in view of the existing rules. According to the present Rules, the plot size in a layout should be 120 sq. yards. However, in view of relaxation granted in G.O.Ms.No.12, dated 07.01.2011, GHMC agreed to reduce size of plot to 90 sq. yards. Therefore, the Society has carved out 148 sq. yards as plot sizes to be jointly allotted to two members with a building plan for ground plus one upper floor so as to get one floor to each member. The Managing Committee considered alternate proposal for members other than Class-IV employees that there shall be an option to open plot of 94 sq. yards with a single bed room tenement or to have 1800 sq. feet tenement in a building with ground plus four floors to be constructed in a plot of 850 sq. yards each. The said proposal was unanimously accepted by the general body in the meeting held on 22.07.2017. The comprehensive layout and building permission has been sanctioned by the building committee. The 3rd respondent Society has to pay 14 crores towards permit fees for total built up area of

1,23,144.90 sq. meters and is entitled to a concession of 50% and, therefore, has to pay only 7 crores out of which Rs.1,42,00,000/- is already paid towards layout fee, which stood cancelled with the communication dated 14.05.2018. The present committee places before the Court the comparative advantages and disadvantages.

13.15 Now, the plea introduced by the 3rd respondent Society is that the allotments, if any, made pursuant to the orders in W.A.No.260 of 2013 dated 05.03.2013 is not possible as that layout is without final approval or technical sanction, and also that the allotment cannot be given effect to in view of rejection of the said tentative layout vide order dated 14.05.2018.

13.16 At the time of arguments, Mr.M.V.Durga Prasad contends that reliance on the allotment order made pursuant to order in W.A. No.260 of 2013 by any members in the jurisdiction under Article 226 cannot be examined inasmuch as only one of the members nominated by the Division Bench has signed on the allotment orders, the other learned Advocates appointed have not signed. Through the counter affidavits filed by the Committee members, it is stated that the tentative layout now sanctioned by GHMC is operated by and large the aspirations of all the members of the Society are satisfied. We deem it appropriate to place on record the following stand of 3rd respondent Society in the counter affidavit dated 26.11.2018.

“It is significant to submit here that even surviving (sic) members, who filed writ petitions in W.P.No.20123 of 2007 challenging the size of the plot as per their eligibility they also agreed to the said proposal under parties to the Resolution dated

22.07.2017. The 3rd respondent Society prays for issuing appropriate directions.”

W.P.No.19939 of 2017:

14. A.P. High Court Employees Mutually Aided Co-operative Housing Society Limited, represented by its Secretary P.Vinod Kumar filed the instant writ petition for a writ in the nature of certiorari to quash G.O.Ms.No.102 Revenue Assignment-II Department, dated 15.06.2017 and prays for a direction restraining the respondents from interfering with the possession and enjoyment of land allotted to petitioner Society admeasuring Acs.39-00 in Sy.No 25/part I to 9 of Kancha Gachibowli Village, Serilingampally Mandal, Ranga Reddy District, to petitioner Society and to convey title of the said land to petitioner Society. The Housing Society in effect challenges the order cancelling the allotment made through G.O.Ms.No.1357 dated 10.11.2010 and proposal to resume possession from the Housing Society.

14.1 The case of petitioner/Housing Society is that through Government Memo No.39612/ASSN.V(2)/2003 dated 13.10.2014 the possession of the subject land was delivered to Housing Society. The Housing Society by referring to Memo No.46112/ASSN.VI/2005 dated 31.10.2017 the subject land i.e., 39 acres out of 427 acres has been demarcated. The Housing Society claims to be in possession and enjoyment of the subject land ever since 2004. The case of Housing Society is that between the period 2010 and 2013, the affairs of the Society were not properly conducted by the then President and Secretary Mr.N.Purshotham Reddy, Mr.N.Chandra Sekhar and Mr.P.Venkat Reddy and the Housing Society alleges

that the said Committee misappropriated about six crores of money collected from the members of Housing Society. The Housing Society refers to the enquiry reports submitted by the Deputy Registrar (Co-operative Societies). The composite state of A.P. issued G.O.Ms.No.1357 dated 10.11.2010 whereunder the subject land was alienated in favour of Housing Society. The operative portion of G.O.Ms.No.1357 reads thus:-

“Government after careful examination of the matter, have decided to accept the above proposals and accordingly hereby direct that the Government land to an extent of 39 acres in Sy No 25/part I to 9 of Kancha Gachhibowli village SerilIngampally Mandal, Ranga Reddy District, delineated in favour of A.P.High Court Employees Co-operative Mutually Aided Co-operative Housing Society Limited, on payment of value of Rs.37,500/- per acre and also to charge 9% interest on value from 17.03.2004 i.e., the date of handing over possession of the land subject to conditions and guidelines contained in G.O.Ms.No.242, 243 and 244 dated 28.02.2005 and other usual conditions and in relaxation of condition regarding non-allotment of land lying within the outer ring road stipulated in G.O.Ms.No.243, dated 28.02.2005”.

14.2 The Housing Society by referring to the alleged mismanagement in internal functioning of the Society states as excuse for not paying sale price to Government for the sale of land. The Housing Society applied for lay-out sanction before GHMC and the GHMC on 10.01.2013 granted tentative layout subject to Housing Society paying Rs.1,42,00,000/- towards development charges. The tentative layout dated 10.01.2013 opened up new disputes amongst the members on the size of the plot, eligibility for allotment of different plots to different categories of members etc. The Managing Committee in office in 2013 was disqualified under

Section 21(6) (c) of the MACS Act for not placing the audited accounts in the Annual General Meeting. The disqualification of Managing Committee resulted in vacuum in the affairs of society. The Housing Society, it is alleged, is always ready and willing to make the payment of price and take title of subject land from the Government. The Managing Committee of Housing Society was non-functional between 2013 and 2016. The deponent Mr.P.Vinod Kumar states that the present Committee was elected in December, 2016 and ever since the affairs of the Society are looked after and a few steps were taken for allotment of plots as per the orders of this Court in W.A.Nos.260 to 263 of 2013 dated 05.03.2013. The affidavit refers to the composition of members of Housing Society as the number of members of Housing Society is 1108 as on 18.06.2017, out of which 550 employees are having place of birth in the State of Telangana, 50 members from other States i.e., Kerala, Tamilnada, Bihar, Orissa etc., and the balance have their native place in the State of Andhra Pradesh. The commissions and omissions of Managing Committee, it is stated, ought not to be reason for taking any drastic action of resumption of land against the legal entity i.e. Housing Society.

14.3 It is further averred that the 1st respondent on the suggestions or at instance of 2nd respondent issued show-cause notice dated 28.10.2016 proposing to withdraw G.O.Ms.No.1357 dated 10.11.2010 on the alleged ground of violation of conditions laid down in G.O.Ms.No.1357 dated 10.11.2010. The Housing Society through challan No.259043 dated 08.03.2017 deposited a sum of Rs.46,51,449/- towards the sale consideration into the Court Treasury

and the amount deposited has been accepted. The Housing Society on 22.11.2016 submitted explanation to the show-cause notice dated 28.10.2016 and with the payment of sale price together with interest, the condition imposed in G.O.Ms.No.1357 dated 10.11.2010 is complied with. The 1st respondent issued impugned G.O.Ms.No.102 Revenue Assignment-II Department dated 15.06.2017 withdrawing G.O.Ms.No.1357 dated 10.11.2010 and directed the 2nd respondent to resume possession of the subject land. Hence, the writ petition.

14.4 The petitioner assails G.O.Ms.No.102 dated 15.06.2017 as illegal, amounts to arbitrary exercise of power and the impugned order is vitiated by discrimination in law and fact. The basis or the legal ground is that the Housing Society in pursuance of the larger policy decisions implemented by the composite State was put in possession through Government Memo dated 13.01.2014 and the demarcated portion of subject land of 39 acres was delivered through Memo No.46112 dated 31.10.2007. The Housing Society along with similarly situated employees of Government/Secretariat of Housing Societies is in possession and enjoyment of the land demarcated, allotted and is enjoying the property in possession of Housing Society.

14.5 G.O.Ms.No.1357 stipulated the sale price per acre at Rs.37,500/- and the component of interest at 9% from 17.03.2004 was stipulated as part of sale price for delay in payment of sale consideration from the date of taking possession till the amount is paid.

14.6 G.O.Ms.No.1357 dated 10.11.2010 issued by the composite State did not stipulate the outer limit within which the sale price has to be paid by the allottee. The respondents are aware of the disqualification incurred by the Managing Committee under Section 21 (6) (c) of the MACS Act and the squabbles in the administration of the Society. Thus, the factor which is beyond the control of either the members or the Housing Society precluded the Society from acting within reasonable time.

14.7 The allotment through G.O.Ms.No.1357 dated 10.11.2010 is a Government grant. According to the Government Grants Act, 1895 non-formal sale document is necessary, as the provisions of Transfer of Property Act, 1882 are inapplicable to Government grants. The Housing Society, in fact, to go forward with the allotment has obtained tentative layout by paying Rs.1,42,00,000/-, obtained approval for tentative layout dated 10.01.2013 by paying Rs.1,42,00,000/- and further that keeping in view the orders in W.A.Nos.260 to 263 of 2013 dated 05.03.2013 a plot allotment certificate to individual member was granted. The cancellation of G.O.Ms.No.1357 dated 10.11.2010 or resuming possession from Housing Society is arbitrary and illegal. The Government keeping in view the purpose for which the Government land is allotted to the Housing Societies of employees of Government/High Court did not stipulate time as the essence for performance of condition. On the other hand, the imposition of interest on payment of sale price is a condition, which intended to compensate the delayed payment by receiving interest. The delayed payment by itself does not result in withdrawing the grant or the land already alienated in favour of the

Housing Society. The time is not the essence of the contract. The Housing Society on 08.03.2017 paid the sale consideration. The show-cause notice dated 28.10.2016 is *ex post facto* compliance of condition and a statement of charge for proceeding to pass the order of resumption by 1st respondent. The Housing Society raises a categorical ground on Article 14 of the Constitution of India which reads thus:

“The explanation of the petitioner society was not considered at all. Further the impugned government order is passed at the suggestion of the District Collector and thus there is no independent application of mind by the 1st respondent. Similar allotments made in favour of the other employees housing societies namely, i.e. Secretariat Employees Aided Mutually Cooperative Housing Society, T.N.G.O's Mutually Aided Cooperative Housing Society are not disturbed at all. Hence the petitioner is subjected to invidious discrimination.”

14.8 The explanation of the petitioner's Society was not considered at all. Further, the impugned Government order is passed on the suggestion of the District Collector and thus, there is no independent application by the 1st respondent.

14.9 Similar allotments made in favour of other employees, Housing Societies namely Secretariat Employees Aided Mutually Co-operative Housing Society, TNGOS Mutually Aided Co-operative Housing Society are not disturbed at all. Hence, the petitioner was subjected to bias and discrimination. G.O.Ms.No.1357 does not envisage cancellation for not complying with the condition imposed by G.O.Ms.No.1357 dated 10.11.2010. The respondents did not demand vendee to pay sale consideration amount. The vendee by treating the show-cause notice as demand for deposit

of sale price on 08.03.2013 deposited the sale consideration. The cancellation of allotment of subject land or resumption of possession affects the larger interest of members on account of alleged commissions and omissions by Managing Committee. The petitioner prays for setting aside the order etc.

14.10 On 20.06.2017, the writ petition was admitted. One of us (SVB,J) granted interim suspension of G.O.Ms.No.102 dated 15.06.2017. In the order dated 20.06.2017, while granting interim suspension, the following observation was made and time granted to respondents to place details before the Court.

“Query of this Court whether the 1st respondent resumed any other land alienating for not complying with the conditions or the purposes for which the alienation was made, the learned Government Pleader submits that he is unable to immediately answer the query of the Court, however seeks time to place on record the reply of the 1st respondent in the counter affidavit.

The statement of the Government Pleader is placed on record. The interim suspension granted on 20.06.2017 is subsisting.”

14.11 The 2nd respondent filed counter affidavit dated 15.12.2018 for and on behalf of respondent Nos.1 and 2 during and in the course of hearing of the batch of writ petitions and produced the record for perusal of the Court. The respondents did not seek vacation of the interim order granted on 20.06.2017, the suspension order is subsisting as on date. The 2nd respondent refers to the circumstances leading to the formation of Housing Societies reserving an extent of 427 acres in Sy.Nos.36 and 37 of Gopanapally village and in Sy.No.25/P of Kancha Gachhibowli Village, Serililngampally Mandal, Ranga Reddy District, and the

recommendations of the Committee constituted vide G.O.Ms.No.590 dated 10.07.1991 and admits that the 1st respondent through Memo No.39612 dated 13.01.2004 issues instructions for handing over advanced possession of land in favour of Government Employees Mutually Aided Co-operative House Building Society Limited, which was constituted as Apex Society, pending finalisation of allotment proposals. The 2nd respondent admits demarcation and allotment of 39 acres in Sy.No 25/part 1 to 9 of Kancha Gachhibowli Village, Serilingampally Mandal, Ranga Reddy District, in favour of the Housing Society.

14.12 The 2nd respondent refers to the admitted case of Housing Society on alleged irregularities and illegalities by ex-Managing Committee of the Housing Society. The 2nd respondent refers to criminal cases pending against Society members on the alleged misappropriation of society's funds. The commissions and omissions of the members of the Managing Committee are clear violation of provisions of the MACS Act and the bye-laws. The issue of show-cause notice dated 28.10.2016 and the reply dated 22.11.2016 are admitted. The 2nd respondent refers to the conduct of members of Housing Society when the DCO, Hyderabad issues proceedings dated 19.12.2013, 26.04.2014 for appointment of adhoc Committee for the purpose of conduct of elections and filing of writ petitions by the members and obtaining stay of the proceedings through which adhoc committee was constituted was stayed. The members of Housing Society on 21.11.2015 could not constitute adhoc committee with their unruly behaviour and obstruction of proceedings and under those circumstances, the DCO/Joint

Registrar opined that it would be appropriate that Government of Telangana would be requested to resume the subject land as some members of the Housing Society are acting against the interest of the Society and causing grave injustice to deserving members without allotting plots even after lapse of eight years.

14.13 On the criminal complaint lodged against the ex-Managing Committee members, the CCS Police have arrested them and the accounts of the Society have been frozen due to financial irregularities committed by the Managing Committee. The DCO, Hyderabad, filed criminal complaint against ex-Managing Committee members at SHO, Charminar in FIR No.68 of 2013 for the alleged misappropriation and fraud committed by them. The case is pending before the Co-operative Tribunal to recover the misappropriated amounts and the disqualification of Committee members through proceedings dated 19.12.2013 is stated. These circumstances are stated in the counter affidavit to explain the sorry state of affairs in the Housing Society and to steer clear from the allegation made against the respondents that the alienated land, if is resumed by the Government the resumption or cancellation of allotment is an act necessitated by the commission or omission of the Managing Committee of the Housing Society. The 2nd respondent refers to lackadaisical attitude of Housing Society in undertaking barest of bare development of subject land. According to G.O.Ms.No.416 dated 18.03.2003, the Housing Society is required to allot individual house sites within six months from the date of alienation as the allottee is required to complete the house within three years from the date of allotment in terms of

G.O.Ms.No.416 dated 18.03.2003. The categorical assertion of respondents is that the Housing Society is not at all serious on utilization of allotted land, which was and is prime land, but issues are dragged on for a long time, thereby the fruits of allotment are not reaching the eligible members. This is sufficient ground to resume land from the Housing Society.

14.14 The respondents have no other option except to cancel G.O.Ms.No.1357 dated 10.11.2010 as the possession was given on 13.01.2004 and there is no progress for nearly 13 to 14 years. The payment of land cost after issuance of show-cause notice dated 28.10.2016 cannot be treated as a valid discharge. However, an effort is made by Housing Society to latch on to the property.

14.15 The 2nd respondent refers to G.O.Ms.No.493 issued in 2005 wherein the Government had revised the assignment policy to construct multi-storied Housing Complexes and not allotted land for individual house plots. The acts of commission and omission of the Society, its Managing Committee and the members rendered the Housing Society disqualified to continue to hold the Government land. The case of 2nd respondent is that, if there is anybody to be blamed for the decision of the 1st respondent to resume the subject land, it is only the Society and its executive members, who have bungled and made use of the allotment of land for self aggrandizement. The 2nd respondent states that when the respect of Executive members is restored, the Society is brought back to its sound functioning in terms of the provisions of the Act and then the Society can be trusted till then even an inch of the land belong to the people cannot be entrusted to Housing Society. The lapse of

time from the date on which the possession is granted till today there is a sea change in the criteria for allotment of Government land and the order of resumption is justified.

14.16 The grounds raised in the affidavit challenging G.O.Ms.No.102 are generally denied and according to respondents, the 1st respondent has given fair and sufficient opportunity to Housing Society. The circumstances are admitted in the explanation and not a detailed enquiry is warranted. The 1st respondent though refers to the report submitted by the 2nd respondent, but opportunity is afforded and there is no violation of principles of natural justice and there is no discrimination in cancellation or resumption of land allotted by the Government.

14.17 It is necessary to take note of a fact that the counter of 2nd respondent does not refer to the ground raised by the Housing Society in para (9.C), which is excerpted above, and/or gives its reply as agreed to be given while the interim order dated 20.06.2017 was passed. To complete the narration, these aspects are merely adverted to. The respondents pray for dismissing the writ petition.

14.18 In hindsight, it ought not to appear to any one including the respondents/State that this Court by issuing directions in Writ Appeal No. 209 of 1993 dated 04.08.1995 has invited the spate of litigations within the precincts of the High Court. The employees of High Court were rightly denied, but through judicial orders in W.A. No.209 of 1993, the claims of employees of High Court are erroneously included for land allotment. The directions which are already excerpted ensured equal treatment to the employees of High Court as well in the matter of a policy decision taken by the Government

to provide house-sites to the employees in Government sector and that the employees of High Court are not denied such consideration or opportunity at the discretion of the Government. We are constrained to make this observation, for Mr. Sharath Kumar, learned Special Government Pleader appearing for the State did not hesitate to argue on various commissions and omissions by the members of the Managing Committee of Housing Society on the desirability of continuing the allotment with the Housing Society.

14.19 We would like to decide the legality or otherwise of G.O.Ms. No.102 Revenue (Assn.II) Department, dated 15.06.2017 and while examining the prayers the disputes of members in different manifestations are canvassed by the members of Housing Society. The necessity to consider these disputes would arise subject to the outcome of the prayer in W.P.No.19939 of 2017, filed questioning G.O.Ms.No.102 dated 15.06.2017.

W.P. No.19939 of 2017:

15. Sri Vedula Venkataramana, learned senior counsel appearing for petitioner/Housing Society, submits that the Housing Society consists of employees of High Court and the employees represent different States. The consideration of case of Housing Society dates back to the directions issued by this Court in W.A. No.209 of 1993. The Society has been taking part in the Apex Society i.e. Gopanapally Government Employees Mutually Aided Cooperative Apex House Building Society and as part of such apex body, the possession of an extent of Acs.427 was handed over to said apex body through Memo No.39612/ Assn. (V2)/2003

dated 13.01.2004. As admitted by respondents themselves, an extent of Acs.39-00 in Survey No.25/P of Kancha Gachibowli Village recommended and finally accepted, resulting in issuance of G.O.Ms.No.1357 Revenue (Assn.V) Department dated 10.11.2010. The time spent from 2004 till 2010 cannot and could not be put against the petitioners Society.

16. He does not shy away from accepting the sorry state of reality that the disputes among the employees of High Court have arisen only with the allotment of land by the Government to the Housing Society, and thereafter, actual alienation through G.O.Ms.No.1357. While admitting this admitted position, he tries to convince or canvass that the Court will have to appreciate the Society as a legal entity, managing committee was kept in-charge of managing the affairs of the Society and that the alienation of Government land was for the larger benefit of members, particularly by providing house sites to employees of High Court. For the commission or omission by the ex-members or the present members of the managing committee, the competent authority under the MACS Act, 1995 can administer and control the situation and take such other preventive or punitive action against the erring members of the managing committee. In other words, the members of the society who have parted with substantial amount and are also complaining that crores of rupees were embezzled or misappropriated by the ex-members of the managing committee. These members, if are denied house plots from out of the alienated land in favour of the Housing Society, the members lose both ways. By explaining the

contention, he contends that the procedure available under the MACS Act, 1995 was proceeded with against the ex-committee members so there ought to have been distinct consideration on action available against members and on proper utilization of alienated land. He further contends that on the representation dated 01.12.2014 one Mr. Narsimhulu and the President of High Court Telangana Employees Association, the 1st respondent ought not to have set in motion any action for cancelling the alienation or resuming possession of subject land. According to him, G.O.Ms.No.1357 dated 10.11.2010 directs alienation of subject land in favour of Housing Society. No time limit is prescribed for paying the sale price. On the other hand, G.O.Ms.No.1357 provides for payment of interest in case of delay in paying the sale consideration from the date on which possession is given till the date the sale price is paid. In the case on hand, the 2nd respondent issued show cause notice dated 28.10.2016 and on 08.03.2017, the Housing Society paid the sale price together with interest, and thereafter the impugned G.O.Ms.No.102 dated 15.06.2017 was issued when one of the defects noted in the show cause notice is substantially removed by the Housing Society. He further contends that the unilateral cancellation of allotment of land through alienation is unavailable both under the Government Grant Act and G.O.Ms.No.1357 or common law principles. G.O.Ms.No.1357 is allotment of Government land and is exempt from the provisions of the Transfer of Property Act, 1882. He contends for this contention as well the impugned G.O. is liable to be set aside.

Referring to the decision making process of 1st respondent in issuing the impugned Government Order, he contends that the 1st respondent issued the show cause notice on the complaint dated 10.10.2014 filed by one of the members of Housing Society. The Government/2nd respondent ought to have allowed such member to work out his grievance under the MACS Act. Notwithstanding 1st respondent calls for remarks from the 2nd respondent and excerpts the remarks offered by 2nd respondent and without independently examining its power or jurisdiction and the circumstances whether warrant cancellation of allotment etc., passes the order impugned in the writ petition.

17. The order of 2nd respondent is bereft of authority and unilateral recalling alienation is impermissible in law. He further contends that the 1st respondent ought not to have entertained any complaint received at the instance of the President, High Court Telangana Employees Association, which has nothing to do with the petitioner Housing Society. He contends that in Paragraph 9.C of the writ affidavit, the Housing Society has categorically asserted that the 1st respondent has passed the impugned G.O. and subjected the petitioner to invidious discrimination. The 1st respondent has not cancelled the alienation of land made in favour of other Societies reserved through G.O.Ms.No.853 dated 24.09.1991. He draws the attention of the Court to the interim order dated 20.06.2017 and also operative portion excerpted above and contends that the counter affidavit is silent and therefore, it can be fairly assumed by Housing Society that there is invidious

discrimination and from the conduct of the 1st respondent it is for the Court to presume discrimination and grant relief to Housing Society. Therefore, on the ground that the impugned G.O. is violative of Article 14 of the Constitution of India and is passed at the instance of persons who have nothing to do with the petitioners Society. He finally contends that the show cause notice, if is treated as demand by the vendor/Government for performance of condition imposed in G.O.Ms.No.1357, the petitioner society has complied with the condition albeit in 2017 and there is no reason for cancelling the allotment. The hornet's nest now shaken up by this Court in the present batch of cases gives ample power and jurisdiction to this Court to set right the affairs of petitioner Society by keeping in view the power the Court would exercise under Section 92 of the Civil Procedure Code and the inherent power this Court has under Article 226 of the Constitution of India. Therefore, he contends that the G.O. impugned in the writ petition is liable to be set aside and the interest of the society and its members is preserved by delineating the individual acts of commission and omission by the managing committee members of past or present.

18. Mr.Sharath Kumar, learned Special Government Pleader, opposes the writ prayer on all fours by not hiding bones in his contention. He contends that the possession of land was given to Societies in the year 2004. It is not that the employees or the members of these Societies are unaware of allotment of Government land and the happenings in housing society from time to time. The composite State of A.P. without insisting on the

performance of any condition by the Housing Society alienated in its favour an extent of Acs.39-00 of land. Going by his argument for allotment as house plots to the members of Housing Society, the the commissions or omissions of members of managing committee are not treated as distinct and separate, when it comes to appreciating whether the purpose for which the land was alienated is achieved or defeated. He contends that by a mere reading of show cause notice dated 28.10.2016, the explanation given by the Housing Society would be sufficient to show that the conclusions recorded in G.O.Ms.No.102 dated 15.06.2017 are naturally warranted and great juristic principles are not involved for appreciation. Therefore, he submits that when a clear and categorical finding which is permitted from the stand taken by the Housing Society is merely recorded, it cannot be gain said that the exercise of such power is and the protection of Government land suffer from malafides. He submits that even when the land is allotted to the petitioner society it was worth several crores of rupees, but the Government with a view to providing shelter to the employees, including from Government Sector the employees of High Court granted the land at a very meager amount or throw away price. According to him, State largess distribution in this fashion is impermissible. He contends that there is change in Government policy with the issue of G.O.Ms.No.493 and according to the changed policy introduced in G.O.Ms.No.493, it is no more feasible and practicable to allot land for house plots to the eligible persons. He draws the attention of the Court to various cases pending against the ex-members of

managing committee and the categorical stand of the 2nd respondent in the counter affidavit i.e., “if there is anybody to be blamed for the decision of the Government to resume the land, it is only the society and its executive committee members who have bungled and made use of the allotment of the land for aggrandizement. Without the antecedents of executive members are verified and the society is brought back to its sound functioning in terms of the provisions of the Act, they cannot be proceeded even with inch of land belonging to the people.”

19. According to him, the condition to pay 9% interest on delayed payment cannot be treated as an alienation made without necessity to discharge reciprocal obligation on the part of the society and further giving latitude to pay the amount as and when the Housing Society decides to pay is not the intention of the condition. The policy of the Government to provide housing to needy is consistent and the 1st respondent is implementing so many welfare schemes, and even now to the eligible persons, accommodation as per the eligibility and entitlement will independently be considered. He contends that from the material on record and the annexures shown in the accompanying affidavits, the petitioner Society is not entitled for any indulgence from this Court. He relies on the decision in K.Lambodara Naidu v. State of Andhra Pradesh¹ to contend that the changed policy justifies cancellation of alienation, resumption of possession and utilize the available land according to the changed policy. He prays for dismissing the writ petition.

¹ 2015 (4) ALD 636

20. Mr.Vedula Venkataramana by way of reply submits that the members since are unhappy with the persons who are in office prior to 2016 have elected new body and new body from the date it has assumed office has shown substantial improvement in the conduct of the affairs of the society. The Registrar is the competent authority under the MACS Act, 1995. According to him, G.O. Ms.No.493 was issued in the year 2005. The decision to allot land to apex society was covered by G.O.Ms.No.633 dated 17.11.1992, G.O. Ms.No.850 Revenue Department dated 24.09.1991, G.O.Ms.No.590 etc. In principle allotment firstly was completed before the changed policy if any is introduced through G.O.Ms.No.493 issued in 2005. He further submits that the respondents did not refer to G.O.Ms.No.493 in the impugned Government Order (G.O.Ms.No.102). What is not stated as a reason cannot and could not be a ground for sustaining such decision. While replying to the change in policy, he contends that the 1st respondent issued G.O.Ms.No.1357 dated 10.11.2010 by referring to G.O.Ms.No.589, 850, 433 etc and not G.O.Ms.No.493. Therefore, G.O.Ms.No.493 firstly has no application and secondly the 1st respondent chose not to take note of the policy introduced through G.O.Ms.No.493 while alienating the land in favour of petitioner and is not a ground now available to respondent. He prays for allowing the writ petition.

21. We have noted the submissions and perused the record in W.P. No.19939 of 2017.

22. Now the point for consideration is:

Whether the impugned G.O.Ms.No.102 dated 15.06.2017 is valid, tenable and whether the circumstances justify cancellation of alienation and resumption of land from petitioner society?

23. Reverting to the circumstances relevant for appreciation of rival submissions, it is noted that the 1st respondent issued show cause notice dated 28.10.2016 and the reasons for show cause notice are that Housing Society failed to make the requisite payment towards cost of the land; it failed to get the layout approved; failed to utilize the land for which the land was alienated even after 12 years from the date of taking possession, failed to provide infrastructure and also did not allot individual house-sites to the members in terms of G.O.Ms.No.244 dated 28.02.2005. The Society is not functioning in accordance with the objects of Housing Society and the MACS Act, 1995. The annual returns of the society are not filed, ex-managing committee was disqualified etc. In other words, the society though was allotted land upon consideration of its suitability and desirability, on account of its post allotment conduct, the housing society disentitled itself from enjoying the fruits of alienation of land made by the 1st respondent. The gist of reply of Housing Society is that the land though was delivered possession in 2004, the actual allotment was in 2010. Unfortunately, the managing committee members of petitioner Housing Society have indulged in the acts of commission and omission and that serious allegations of misappropriation of funds etc. are enquired into on members of managing committee. It is incorrect to say that the Society did not take steps for converting the land into a layout inasmuch the

Society at the first instance by paying Rs.1,42,00,000/- obtained tentative layout and was about to operate the tentative layout in terms of orders issued by this Court in W.A.No.260 of 2013. Twelve year period reckoned by the 1st respondent to attribute delay in implementing the project is incorrect and unavailable from 2015-16, there is sufficient progress. Assuming without admitting that these are the reasons which are writ large on the performance of either the Society or the managing committee of the Society, at the outset, this Court is of the view that a few of the circumstances were completely beyond the control of majority of the members of Housing Society and secondly for the commission and omissions enquiry under the MACS Act is initiated and statutory reports are available, criminal cases are registered against alleged misappropriation and the law is taking its course. These aspects ought not to be prefaced by 1st respondent for recalling alienation of land and/or resuming alienated land. These are various acts of commission or omission by the managing committee members of the society and in such cases, the legal entity the society is also an aggrieved party vis-a-vis these alleged acts of commission and omission. What is important even worth noticing in the acts of commissions or omissions alleged against the even ex-members of the managing committee is that the land is not alienated or allotted to a person other than the member of the Housing Society. It is contextual to refer this aspect at this stage that the members among themselves by reference to classification as category-A and category-B have been obstructing to the development of alienated land into layout

which would have enable allotment of house plots to all the members of the Society. This Court when adverts to these circumstances ought not to be understood as condoning the lapses, if any, are committed by the ex-managing committee or whosoever in the housing society. However, by referring to these acts of alleged commissions and omissions particularly issuing notice at the instance of one member and the President of High Court Telangana Employees Association, Hyderabad is not warranted.

24. Apart from the above, it is noted that G.O.Ms.No.1357, in furtherance of G.O.Ms.No.589, 850 etc., alienated land in an extent of Acs.39-00 i.e. the subject matter of the writ petition in favour of Housing Society. G.O.Ms.No.1357 itself has not preserved a right to cancel the allotment or recall the grant if the land is not utilized within a reasonable period. The 1st respondent in G.O.Ms.No.1357 refers to subject to other conditions and guidelines issued in G.O.Ms.No.242, 243, 244 etc. The 1st respondent through the Government Order impugned in the writ petition has not independently examined the issue from the jurisdiction it has and whether the cancellation of allotment is in any way made implementing the extant Policy which is now adverted to by relying on G.O.Ms.No.493. After perusing G.O.Ms.1357 dated 10.11.2010, this Court is of the view that the 1st respondent alienated subject land to Housing Society/petitioner in the same way in which Acs.400-00 of land was alienated in favour of Secretariat Employees House Building Society, A.P. NGOs, Telangana NGOs etc. The alienation from the combined reading

of memos issued in 2004 and Government orders in 2010, it can be held that, is completed and the non-payment of sale price does not by itself result in cancellation of alienation made through G.O.Ms.No.1357 dated 10.11.2010. The reference to change in policy in G.O.Ms.No.493 in the considered view of this Court is incorrect and this policy was made in the year 2005, but the allotment of land is made in 2010 without reference to G.O.Ms.No.493, on the other hand, alienation was made by referring to G.O., which has bearing on the subject G.O. Ms.Nos.589, 850 433 etc. With the change in policy, this Court has difficulty in accepting that there is a ground available for cancelling the alienation of land made in favour of the petitioner society.

25. The other ground of challenge is that the petitioner society is subjected to invidious discrimination in ordering resumption of alienated land. The Housing Society on this ground laid foundation complaining discrimination in Para 9.C of the affidavit, This Court through the interim order dated 20.06.2017 has placed on record the statement of learned Government Pleader appearing for the State/1st respondent whether the State resumed any other land alienated for not complying with the conditions or the purpose for which the alienation is made etc., the counter affidavit is silent in this behalf and from the assertion in the affidavit and the order of this Court dated 20.06.2017 and the silence in the counter affidavit compel this Court to observe that the 1st respondent on the complaint from one Narsimhulu and the President of High Court Telangana Association issued the order

impugned in the writ petition but not to take holistic view on the issues if any pending in the land already alienated to other Societies. In the above analysis, this Court is of the view that by the time the show cause notice is issued, the ex-managing committee members are subjected to legal proceedings and their acts of omissions and commissions are independent issues for consideration and those issues are expected to reach logical end in accordance with the applicable law including prosecution. It is nowhere alleged that the members of Housing Society upon allotment of house plots have misused the allotment etc., to deny them the benefit of allotment made as early as 2004, crystallized as alienation in the year 2010, and finally formalized with the payment of sale consideration on 08.03.2017. For the above reasons, and also that through common order, this Court in exercise of its jurisdiction under Article 226 of the Constitution of India and also as *parens patriae* is issuing directions on the issues noticed in the batch of writ petitions and directions and for implementation of such directions a committee consisting of sitting Judges is appointed to oversee from time to time to prevent misuse of position or abuse of funds or siphon of valuable Government land for any other purpose. What is worth noticing at this juncture is that each member, if ultimately is allotted would get about 75-80 square yards for constructing a house for being an employee of the High Court of Judicature. The counter affidavit as already noted does not intend to trust the society unless antecedents of the executive committee members are verified. This apprehension, we state will

be allied by exercising our power as *parens patriae* and the power/jurisdiction we can exercise under Article 226 of the Constitution of India.

26. We have also perused the record produced by the respondents and are of the view that inputs received from various sources ought to have been relied on, for streamlining the affairs of Housing Society within the four corners of law, but not removing the very basis on which the entity of the society is laid and established. We sum up that on account of alleged commissions or omissions of the Executive Committee Members (present or past) of the Society, the entitlement of the members for housing plot of a small size of 75-80 square yards (approximately) could not be defeated. The beneficiaries of the Government Order are the Members of a Society. The mismanagement or vagaries of the Managements from time to time cannot deprive the Society of its asset or entitlement as a juristic person to avail the alienated land for allotment as house plots to its members.

27. The 2010 Government Order is one which, in effect, gives finality to the transaction between the Government and the Society. The liability of the Society thereon was to pay amount to the Government under that Government Order. Thereupon, formal transfer of property ought to be issued by the Government and for the said purpose, suitable directions are considered and given.

28. G.O.Ms.No.493, which is now shown as the policy of the Government, was issued in 2006, and, therefore, the 2010

Government Order has to be taken as one made by 1st respondent by taking into consideration the changed policy as well. Therefore, that policy by itself cannot contradict what has been granted in 2010. The 2010 Government Order in favour of the Society is not in violation of the terms of the G.O.Ms.No.493 as well. This ground that there is change in policy, is stated in the counter affidavit, but not in the notice issued or the impugned order.

29. The sequence of events will show that the Society is a juristic person, had been working ahead on milestones in ensuring that the alienated land available for allotment as house plots to the members/allottees. There is no question of abandonment of right in the property by the Society to enable the Government to treat it as the land available for resumption or on breach of conditions, order resumption. The 2010 Government Order *per se* does not provide for cancellation of alienated land.

30. The petitioner Society pleads that there is discrimination practiced by the State while issuing the order for resumption. This specific plea was considered at the time of granting interim relief on 26.10.2017. This Court recorded the submission on behalf of the State that it would respond to that plea later on. However, in the counter affidavit of the 2nd respondent there is no pleading by the State denying the allegation of the petitioner that the Housing Society has been singled out and cancellation order impugned in the writ petition issued. No intelligible differentia for such classification or invidious discrimination is demonstrated by the State, including on the ground realities as to possession and utility

of the different parcels of lands given to different Mutually Aided Cooperative Housing Societies etc.

31. We hasten to add that the findings on either unilateral cancellation of land alienated or orders of resumption or reviewed in the peculiar fact situation of the cases heard and disposed of by separate orders, therefore, the conclusions in this behalf are not to understand as the expressing a view on the power of competence of 1st and 2nd respondent to revisit in given cases for recalling the grant. These conclusions are not to be understood as expressing a view on these legal/factual issues and they are considered in the light of material placed before Court as and when the issue arises for consideration.

32. For the above reasons, we are of the view that G.O.Ms.No.102 is unsustainable and is accordingly set aside, however, subject to further directions issued in this behalf by this common order.

W.P.No.20123 of 2007:

33. The averments in the affidavit and the counter affidavit are already stated in the preceding paragraphs of this order. For brevity, we are not referring once again to the case of both parties at this juncture.

34. Mr.Vedula Venkataramana appearing for petitioners contends that the circular dated 28.08.2007 issued by Housing Society is defying the very Government Order subject to which land was alienated in favour of the Housing Society. According to him, Housing Society is under obligation to keep in view the size of plots for allotment in favour of individual members and dividing the plots in any way lesser than what is stipulated in G.O.Ms.No.244 dated

28.02.2005, is unavailable or illegal. He further contends that according to the seniority in the service of High Court, the available land in an extent of Acs.39.00 is to be developed as layout by keeping in view the criteria stipulated in G.O.Ms.No.244 dated 28.02.2005, allot plots accordingly. Thereafter, separate effort ought to be made for getting the land for the members who could not be allotted house plots from Acs.39-00 now proposed to be allotted by the Government. He fairly states that when the writ petition is filed there was no actual allotment of land and therefore, the petitioners disputed even the exact extent which would ultimately be allotted by the Government in favour of the Housing Society. Therefore, he submits that the petitioners at that point of time wanted consideration of their cases strictly in accordance with G.O.Ms.No.244 dated 28.02.2005. In this writ petition, the Housing Society represented by its President P.Jayachandra Reddy filed the counter affidavit and stand stated is reiterated by the counsel appearing for the Housing Society. Firstly, it is stated that the Housing Society cannot and could not compare with other societies which were alienated by the Government by reference to G.O.Ms.No.244, inasmuch as the said employees' societies are for non-gazetted officers, Secretariat employees, class-IV employees etc., whereas the Housing Society of High Court included all the employees who have completed five years of service as on 18.12.2005. In other words, the case of Housing Society is that the means would decide ways in which the destination i.e. allotment will have to be undertaken. The total membership of Housing Society was 1112 members. Therefore, a pragmatic view at that

point of time was taken to develop a layout in such a way that the society would be in a position to allot plot to as many members as it could allot. Accordingly, a decision was taken to divide the employees into two categories i.e. A and B, and allot 120 square yards of plot to 478 members of category-A and 100 square yards plot to 276 members in category-B. Two pieces of land admeasuring 8282.95 square metres and 1997.38 square metres have been set apart to accommodate the rest of the members. This proposal has undergone change through tentative layout sanctioned in 2013 which is not challenged by the petitioner and that tentative layout was also found to be not conforming to the building regulations. Therefore, through communication dated 14.05-2018, GHMC declined to renew the life of tentative layout. The challenge in view of changed circumstances to the circular dated 28.08.2007 is purely academic.

35. This Court is of the view that the perception of petitioners for allotment of land in terms of G.O.Ms.No.244 *ipse dixit* suffers from too many fallacies. The petitioners without even knowing the actual extent of land alienated seek implementation of G.O.Ms.No.244 dated 28.02.2005. Let us, for arguments sake assume that the Housing Society is having two different types of members i.e., members who have been for consideration and allotment of bigger plots called category-A and members for allotment of lesser plots area in category-B as middle income etc. If this is the basis on which the cooperative society is formed, membership registered and that the land was allotted to the members of particular class or category, then there is some

meaning in the petitioners insisting on adherence to G.O.Ms.No.244. The only contention for admission in the instant case is that the proposed member is an employee of High Court for a minimum period of five years. The uniform eligible condition for all the applicants who can be admitted as members in the society is an important circumstance to be borne in mind. The subscription fee, it appears is also uniform for all the enrolled members. The bye laws do not provide for classification of members into different types as Officers, UDCs, Attenders etc. There is no registration of members in different categories. Therefore, at the outset it is unreasonable on the part of the petitioners to classify the employee members in the society into different categories and insist on allotment of land on the basis of their category etc. The purpose of Government orders is to provide land for all the members on board. The Housing Society in view of the available extent of land appropriately adjusted as between all existing members proportionately, without being discriminatory by giving more land to Officers and denying equal land to Attenders, Drivers etc. G.O.Ms.No.244 after the tabulation column size of plots/flats reads thus:

“If sufficient land is not available for allotment, the land can be divided into the plots in the ratio of 4:3:2, 5:1. 75.1.0 for the categories 2 to 5.”

36. The said alternative formula provided in G.O.Ms.No.244 is an indicator to the conclusion that eventually that the Society will have to adjust and allot the alienated land in the best interest of its members. Through this writ petition, we do not propose to open up Pandora box by considering the other submissions that when

the request for land allotment was made, the Society had only 600 members, later on the membership has been enhanced. It is noted that by reference to eligibility criteria, bye law has been registered and the members are admitted into the Housing Society. The petitioners, or for that matter, anyone having accepted the membership in accordance with the bye law cannot and could not be allowed to reopen these issues at this length of time. While the land alienated in favour of Housing Society is developed into house plots. It is part of the present batch that tentative layout sanctioned in 2013 could not be operated on account of communication dated 14.05.2018 by the GHMC and subsequently a comprehensive layout was obtained by the Society. Firstly, the prayer against the circular having regard to the changed circumstances need not be considered and secondly the Society approved the decision to obtain a comprehensive layout for plots and buildings in the meeting held in 2017. The grievance of petitioners is untenable and accordingly rejected.

37. The writ petition No.20123 of 2017 is therefore, dismissed.

W.P. Nos.34762 of 2011 and 6112 of 2013:

38. The petitioners challenge the relaxation granted in G.O.Ms.No.12 Municipal Administration Development (SN) Department, dated 07.01.2011 granting relaxation to Housing Society as illegal etc. The petitioners are the members of the Housing Society. The Housing Society represented to Government to permit the Commissioner GHMC, Hyderabad to allow 20' wide

internal roads instead of 40' wide roads and also permit them to have plots less than 100 square metres and instead of minimum 100 square meters in the proposed layout for which sanction is awarded. The Government through G.O.Ms.No.12 dated 07.01.2011 permitted the Commissioner to accordingly process the layout submitted by the Housing Society. At the outset, we fail to understand the conduct of members/petitioners herein that on the one hand a few members want sizable extents as house plots and another set of employees want internal roads strictly in accordance with the building regulations, when the Government keeping in view the extent of land granted to the Housing Society considers and grants permission to Commissioner to process the layout application by marginally reducing the internal roads and the size of plot, such Government orders are also questioned. The writ petitions are not filed for implementation of a layout or building regulations. Further, the counter affidavit filed by the Society on this prayer refers to this prayer as premature. We are also conscious that the tentative layout sanctioned in 2013 could not be taken forward and subsequent layout-cum-building approval is obtained from the competent authority. The challenge to Government orders having regard to consideration of Housing Society this application and sanction of layout, these writ petitions are without merit and are dismissed as premature then and secondly there is no challenge to subsequent events that have taken place during the pendency of the writ petitions. The writ petitions fail and are dismissed.

W.P. Nos.18935 and 27537 of 2007:

39. The writ petitions are filed challenging amendment to bye law No.2 of the bye laws of Housing Society and the resolution dated 04.05.2007, as illegal, arbitrary and contrary to the MACS Act. The counsel appearing for the petitioners have not made independent submissions pressing the writ prayer. We have fully understood the functioning of the society, and also the pleadings filed in other connected cases, we are of the view that the challenge to the amendment of bye law by filing the writ petitions without availing the remedy under Section 37 of the Act is misconceived. The objection against the maintainability of the writ petition is correctly raised in the writ petitions. The President of the present managing committee through additional counter affidavit filed in W.P.No.36900 of 2016 has stated that the grievance in W.P.Nos.20123, 18935 and 27537 of 2007 does not survive as all the members are being allotted. The said statement is placed on the record and these writ petitions for the above reasons are dismissed.

W.P. No.36900 of 2016:

40. Heard Mr.G.U.R.C. Prasad, learned counsel for petitioner, Mr.Durga Prasad for 3rd respondent/Housing Society, Mr.Ashok Anand Kumar and Mr.Sharath Kumar, learned Special Government Pleader.

41. The petitioner challenges Rc.36/2011-MAC dated 07.10.2016 constituting adhoc board for conducting elections to 3rd respondent society and consequently notice issued by 4th respondent dated 20.02.2016 as illegal and without jurisdiction. The case of petitioner is stated in the preceding paragraphs.

42. The gist of petitioner's case is that the 3rd respondent Society by virtue changed circumstances namely the coming into force of Reorganization Act, 2014 with effect from 02.06.2014 and that the Government issued G.O.Ms.No.28 dated 19.04.2016 adopting amendments with modifications to the A.P. Mutually Aided Cooperative Societies Act, 1995. According to the amendment or modification, the 3rd respondent ceases to be a society under the administrative control of 2nd respondent under the provisions of the Telangana State MACS Act, 1995. The basis for such assertion is that the 3rd respondent was allotted Government land and, therefore, the 3rd respondent comes as cooperative society, therefore, adhoc committee cannot be constituted by the 2nd respondent. Mr.G.U.R.C. Prasad has fairly assisted the Court not only on the grievance which he canvasses for his client but also on the overall happenings in the society. Mr.G.U.R.C. Prasad, to the extent of allotting plots in terms of G.O.Ms.No.243 opposes the case of a class of employees for allotment of sizable plots and submits that all the members are entitled for allotment of house plots. To the extent of challenge laid by the society against the resumption order, he supports the society that for the omissions and commissions of members of managing committee, the employees/members of Housing Society should not be denied the benefit of allotment of house plots. He prays for consideration of this Court to issue directions to complete the allotment process in terms of the order in W.A.No.260 of 2013. According to him, there is tentative layout by reference to which the Division Bench on 05.03.2015 ordered as follows.

“ Now after the change of circumstance and passage of several years, since the tentative layout has been sanctioned by the municipal corporation and the general body of the society has already passed a resolution to allot land to each and every member of the society, we feel it is necessary for us, at this stage, to modify the order so passed by the Court. We direct that the allotment should be made to all the members as agreed in the general body meeting of the society subject to the result of the writ petitions challenging the eligibility criteria of the persons, who have been taken in as members of the society. We appoint three independent persons of this Court, being the learned Advocates, to supervise the allotment and we direct them to hold lottery system to allot plots in favour of members of the society. Accordingly, we appoint (1) Mr. D.V.Seetharama Murthy, learned senior counsel, (2) Mr.S. Satyam Reddy, learned senior counsel and (3) Mr. C. Ramachandra Raju, learned counsel, as an independent committee, under whose supervision the allotment work should be taken up by the appellant – society by way of lottery. We further make it clear that in case, the writ petitioners succeed in the writ petitions; the members, who are not eligible for allotment of plot, shall vacate the said plot subject to any order being passed by the Court.

We further direct that the allotment should be made by the society under the supervision of the aforesaid committee, by way of lottery, within a period of two (2) weeks from today. The batch of writ petitions, being WP.No.6112 of 2013 and WP.Nos.18811, 18851, 18861, 18910, 18935,18962, 20123 and 27537 of 2007, and any other connected writ petitions be listed before the appropriate learned single Judge having roster after two (2) weeks and we only request the learned single Judge to dispose of the matters within a period of three (3) weeks so that matter can be resolved once for all.

Subject to the above, the writ appeals are disposed of.”

43. The committee appointed by the Court had overseen the allotment of plots and the managing committee shall be directed

to issue allotment orders on the strength of tentative allotment made by the committee constituted in this behalf. He submits that the layout sanctioned in 2013 shall be operated and there is no reason for changing the tentative allotment. Incidentally, by filing written submissions, he tries to convince this Court that the allotment, if is completed in terms of the directions issued by this Court in W.A.No.260 of 2013 the allotment would be fair, reasonable and objective. The first and foremost objection of the petitioner is that constitution of adhoc committee by 2nd respondent is illegal and without jurisdiction.

44. It is not in dispute that pursuant to election notification dated 22.10.2016 elections to the managing committee of 3rd respondent was conducted and elected body is in the office. Thereafter, to the notice issued by the managing committee in office, the members have attended special general body meeting or general body meeting and passed a few resolutions. The petitioner in W.P. No.32704 of 2014 refers to applicability of the MACS Act and in W.P. No.36900 of 2017 questions the very authority of 2nd respondent to constitute adhoc board for conducting elections. The conduct of adhoc board by the 2nd respondent is adjudicated to as without jurisdiction.

45. We are of the view that this objection at the instance of the petitioner ought not to be entertained having regard to the effective remedies the petitioner has against the very elections which were conducted on 05.11.2016 and that the elections could be a matter of challenge in proceedings initiated before Court of competent jurisdiction. The petitioner alternatively insists on

allotment of plot size as finalized pursuant to W.A.No.260 of 2013 dated 05.03.2013. The prayer of petitioner for completion of allotment as per the plots allotted pursuant to order in W.A .No.260 of 2013, dated 05.03.2013, and direct the District Collector to register the respective plots does not sink with the legal character and entity the 3rd respondent in law enjoys as on date. The District Collector is under no obligation to accept the responsibility of registering plots at the instance of petitioner to the members of 3rd respondent society. The member in a society is obliged to go with the resolutions of general body of managing committee. This prayer is completely misconceived and without further deliberation the submission is rejected. The petitioner insists on adhering to the layout sanctioned in January, 2013. The elected body of the Housing Society in the meeting convened on 22.07.2017 has taken a few decisions. The 3rd respondent society received letter dated 14.05.2018 vide proceedings 6951/14/22/23011-18/399 rejecting the request of 3rd respondent society for renewing the tentative layout and the managing committee convened a meeting on 01.06.2018 and submitted a revised layout plan to the Commissioner, GHMC which is now treated as comprehensive layout-building approval plan. The managing committee in its competence and power has taken the decision to provide plots as per the plan now sanctioned by the competent authority to 1112 members of the Housing Society. The petitioner cannot raise a dispute under Article 226 and insist on implementation of layout which does not have life or currency due to communication dated 14.05.2018 by the Commissioner, GHMC. The members of the Society are

cooperating with the 3rd respondent society through the elected body in office and it is specious to petitioner to contend that the society is not in existence etc., and further complicate all the issues. The prayers made in the writ petitions lack bonafides and are not in line with the cooperative movement basing on which employees of High Court joined together for common good and benefit. Therefore, this writ petition fails and is accordingly dismissed.

W.P. No.32704 OF 2014:

46. The Housing Society is the petitioner. The petitioner prays for a writ in the nature of Mandamus declaring the action of respondents 2 to 4 in not registering the property to the extent of Acs.39-00 in Survey No.25/Part 1 to 9 of Kancha Gachibowli, Serilingampally Mandal, Ranga Reddy District in favour of petitioner society pursuant to G.O.Ms.No.1357 dated 10.11.2010, as illegal and unconstitutional. The petitioner society has faced a spate of litigations, including the order passed by the Government canceling the alienation and trying to resume the land alienated in favour of the petitioner society.

47. This Court in W.P.No.19939 of 2017 set aside G.O.Ms.No.102 canceling the alienation and consequential order of resumption of subject land. This Court now proposes to issue a few directions to give a last opportunity to 3rd respondent society and for the said purpose, it is essential to enable the petitioner society to get a proper deed of conveyance in its name to register or allot plots to its members. The procedure followed in respect of other societies who are the beneficiaries in terms of G.O.Ms.No.850 is not brought to the notice of the Court. However, as equality of treatment to

the Societies is the requirement of Constitution of India and law, we give liberty to petitioner society by enclosing a copy of this order to respondents to register subject land in favour of petitioner society at its cost and expense and/or alternatively to request the Government to formalize sale of land in favour of petitioner society as has been done in the case of similarly situated employees/societies. A request, if made the request is considered and appropriate orders including registration are passed within a period of eight weeks from the date of receipt of request. The writ petition is ordered as indicated above.

48. The issues have been considered to the required extent and orders are pronounced independently in the batch of writ petitions. This Court cannot ignore the happenings amongst the employees working in the High Court who are members and how the disputes of the society are affecting the day-to-day affairs on the administrative side in the Registry. The criminal cases against employees/members are filed, investigation is going on, reports against misappropriation etc., are already available with the competent authorities under the MACS Act. They are required to be looked into and appropriate decision taken in this behalf. The repeated submission of Mr. Sharat Kumar is that unless the veracity of members of managing committee is verified, the Government does not want to trust the Society with valuable Government land. This Court in W.A. No.206 of 1993 directed 1st respondent to treat the employees on par with employees of other Government segments. Therefore, the genesis can be traced to our directions and keeping in view the admitted fact that the members of the Housing Society

are or were employees of High Court, as *parens patriae* and in exercise of our jurisdiction under Article 226 of the Constitution of India a few declarations and directions are necessitated and are accordingly issued. These declarations/directions are intended to giving quietus to disputes and giving one last opportunity to 3rd respondent Society. The declarations/directions issued are as follows:

49. We feel absolutely necessary to constitute a committee of sitting Judges to supervise and oversee the implementation of the directions by the Housing Society issued by this Court by the instant batch of writ petitions.

(A) A committee of Sri Justice A.Rajashekar Reddy, Sri Justice Challa Kodandaram and Sri Justice P.Keshava Rao is constituted to ensure overseeing the implementations of declarations/directions stated hereunder:

(B) The verification of accounts already ordered by us through our order dated 27.09.2018 under the supervision of the committee consisting of Sri Vedula Sinivas and Ms.SMamatha is directed to be continued, completed and a report is submitted to the Hon'ble Committee of Judges within two months from today for further orders or directions issued to Housing Society, subject to the outcome of the report.

(C) The allegations of embezzlement and misappropriation or misuse of position by any

member of a managing committee is independently dealt with and concluded by taking penal action under the IPC/ Criminal Procedure Code or the MACS Act as the case may be within three months from the date of receipt of copy of this order.

(D) The Chief Judge, City Civil Court, Hyderabad and the Administrative Officer through our earlier orders are directed to hand over the custody of record etc., received from the parties under acknowledgement to the Officer now appointed by the Registrar General. The Officer now appointed by Registrar General is directed to take instructions or orders from the Hon'ble Committee of Judges and report to the Committee.

(E) The 3rd respondent/Housing society is given liberty to request the Committee of Hon'ble Judges for convening a general body meeting of members of Housing Society on the implementation of the layout now sanctioned by the competent authority. The Committee in office furnishes all details on mode of allotment of plots and the schedules under which the installment towards layout development charges are paid by the members etc., to the committee as well as members. The comprehensive layout and building plan now placed on file shall be permitted to be

operated under the guidance and supervision of the committee of Judges and elected body in office.

(F) The Managing Committee of 3rd respondent society shall not receive or make cash payments over and above Rs.5,000/- under any head.

(G) The 3rd respondent society is directed to appoint Chartered Accountant with the prior consultation of committees appointed by this Court to prepare statement of receipts and payments in this behalf, prepare audit report quarterly, half yearly and annually and it is displayed on notice board immediately.

(H) The Society calls for detailed project report on the layout development in accordance with the extant rules, receives quotations from different agencies and confers work order on the contractor(s) who is approved by the committee of Hon'ble Judges.

(I) The statement of Mr.Durga Prasad on behalf of Housing Society that the Society is not insisting on undertaking the construction work by the Housing Society as well is placed on record, accepted and, therefore, the Society shall not undertake construction activity on the plots allotted to the members. The members shall be given freedom and liberty to operate and utilize plots allotted to

them in accordance with the comprehensive layout and building plan approved.

(J) The allotment of individual plots is directed to be completed within a period of six months.

(K) The office premises in High Court of 3rd respondent society or its members and the employees shall not misuse the premises granted by the High Court and the working hours, the premises and the working hours are utilized for resolving the dispute of the society, we direct the Registrar General to look into such incident or behaviour and do the required.

(L) The membership of the Society by reference to minimum experience in the service of High Court resulted in enrolment of 1112 members. The converse of such situation is the employees in the service of High Court could not become members and secondly their cases are not considered for allotment of a house plot. The employees who are not allowed to become members by reference to eligibility criteria filed a few writ petitions. Having regard to the comprehensive consideration of the disputes of the Housing Society, for the present, the prayers have been not pressed in those writ petitions and liberty to canvass the grievance was preserved. We remind ourselves the statement of respondents that the State endeavours to provide

Housing to all segments, including the employees subject to their eligibility etc. Therefore, the Housing Society is given liberty to represent to the State of Telangana/1st respondent, subject to the Housing Society satisfactorily demonstrating to the Government that the land already alienated in favour of the Housing Society is utilized for the purpose for which the land was alienated, and request alienation/allotment of land to the members who have become eligible to be the members of Housing Society. The State, we hope and trust, will consider such representation and allot land, if any available in the neighborhood or at any other suitable place favourably, and pass orders keeping in view the directions issued by this Court in W.A.No.209 of 1993. The consideration of such a request is according to the present policy applicable to the alienation/ allotment of Government land or alternatively as and when the State of Telangana considers alienation/allotment of land to employees in other organizations/Government Sector, the request of Housing Society for allotment of land for housing can be considered.

(M) At any point of time, the Committee is given liberty to take note of satisfactory implementation of allotment of plots and development of layout as

directed by this order or by it and can allow the elected bodies to function on their own without reference to the Committee.

50. In the result, W.P.No.32704 of 2014 is ordered in terms of what all are stated herein above and W.P. No.19939 of 2017 is allowed. W.P. Nos. 18935 of 2007, 27537 of 2007, 20123 of 2007, 34762 of 2011, 6112 of 2013 and 36900 of 2016 are dismissed. No order as to costs.

As a sequel thereto, miscellaneous petitions, if any, pending stand closed.



THOTTATHIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

Date: 28-12-2018
Sp/Prv