

HON'BLE SRI JUSTICE M.S.RAMACHANDRA RAO

WRIT PETITION No. 5950 of 2018

ORDER:

Petitioners assailed in this Writ Petition Memo No.399/FISH/A1/2018, dated 02.02.2018 issued by respondent No.1 staying election to the Managing Committee of the Fishermen Cooperative Society, Kanala Village, Nandyal Mandal, Kurnool District (respondent No.8) scheduled to be held on 13.02.2018 on the ground that certain other persons who are also eligible to become members were not admitted as members by respondent No.8 - Society and directing that elections be conducted after such persons are admitted as members of respondent No.8 – Society.

Petitioners contend that the power has been exercised invoking Rule 22-AAA of A.P. Cooperative Societies Rules (the Rules) and the said Rule has been interpreted by the Division Bench of this Court, in **M.A.R.V.S.Sai Babu v. Commissioner and Registrar of Cooperative Societies, Government of A.P, Hyderabad**¹, holding that power under the said Rule cannot be invoked to postpone the date of election on the ground of irregularities in the preparation of voters list.

This legal position is not disputed by the learned Government Pleader for Fisheries appearing for respondent Nos.1 to 7 and by Sri Koppula Gopal appearing for respondent No.9

¹ 1999(2) ALD 319 (DB)

In the counter affidavit filed by respondent Nos.1 to 7 also, exercise of power in the instant case is sought to be justified by the respondents invoking Rule 22-AAA of the Rules only.

Respondent No.9 has not filed counter though opportunity has been given. However, having regard to the legal position declared by the Division Bench of this Court in **M.A.R.V.S.Sai Babu** (1 supra) that Rule 22-AAA of the Rules cannot be invoked on the ground of irregularities in the preparation of voters list and, since, in the instant case, impugned order has been passed postponing the election to respondent No.8 – Society which was scheduled to be held on 13.02.2018 on the basis of representation of respondent No.9 containing grievance of improper preparation of voters list, the impugned order cannot be sustained. It is, accordingly, set aside and respondent Nos.1 to 7 are directed to proceed to notify a fresh date for election of Managing Committee of respondent No.8 – Society and complete the said process within one month from today. However, this order will not preclude respondent No.9 from availing other remedies available to him in law.

The Writ Petition is, accordingly, allowed.

Miscellaneous petitions pending, if any, shall also stand disposed of. No order as to costs.

M.S.RAMACHANDRA RAO,J

Date:19.04.2018
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