

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND
THE HON'BLE SMT JUSTICE KONGARA VIJAYA LAKSHMI**

Writ Appeal No.564 of 2018

JUDGMENT: (Per the Hon'ble The Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the order passed by the Learned Single Judge in I.A.No.1 of 2018 in W.P.No.7378 of 2018 dated 13.03.2018. The dispute in this Writ Petition relates to non-extension of the benefit of G.O.Ms.No.12 dated 31.01.2018, to the respondent-writ petitioner, whereby the members of the managing committees of various Primary Agricultural Co-operative Societies (for short "P.A.C.Ss") were continued as members of the persons-in-charge committee for a period of six months after expiry of their term of office or till fresh elections were held whichever is earlier.

G.O.Ms.No.12 dated 31.01.2018 permitted denial of the said benefit to such of the P.A.C.Ss which were deemed not fit and not suitable for running the affairs of the society in the interest of the society, or to societies where the managing committees were performing poorly, or where the President/Managing Committee of the PACS attracted disqualification at any level under the provisions of the Telangana Co-operative Societies Act, 1964 or the Rules made thereunder.

The Deputy Registrar of Co-operative Societies had earlier issued proceedings dated 14.02.2018 appointing certain persons as members of the committee of persons-in-charge to manage the affairs of the P.A.C.S of which the first respondent is the President. These proceedings were subjected to challenge in W.P.No.4742 of

2018, and an interim order was passed on 22.02.2018 suspending the said proceedings. On the very next day i.e. 23.02.2018 proceedings were issued withdrawing the earlier proceedings dated 14.02.2018. A day thereafter, on 24.02.2018, the impugned order came to be passed appointing a persons-in-charge committee consisting of two members. The first respondent, who was the President of the P.A.C.S, was excluded and denied the benefit of G.O.Ms.No.12 dated 31.01.2018 to be a member of the Committee of persons incharge. While the said proceedings dated 24.02.2018 refers to several irregularities, allegedly committed by the managing committee of the P.A.C.S of which the first respondent is the President, the fact remains that the first respondent was neither put on notice of any of these allegations nor was he given an opportunity to rebut these allegations before the order, impugned in the Writ Petition, came to be passed.

Learned Special Government Pleader, appearing on behalf of the Learned Additional Advocate-General, would submit that G.O.Ms.No.12 dated 31.01.2018 does not, in any manner, curtail the term of office of the managing committee of the P.A.C.S; it relates only to the constitution of a persons-in-charge committee after expiry of the normal term of office of the managing committee of the P.A.C.S; and G.O.Ms.No.12 dated 31.01.2018 does not require an opportunity of being heard to be afforded to the Presidents of such of those P.A.C.Ss wherein erstwhile members of the managing committee were not continued as members in the persons-in-charge committee. This contention ignores the requirement of the rules of natural justice to be read even into legislation – plenary or subordinate - unless the statutory

provisions explicitly exclude the application of principles of natural justice. (**Institute of Chartered Accountants of India v. L.K. Ratna**¹). The impugned policy, enunciated in G.O.Ms.No.12 dated 31.01.2018, denies the benefit of being a member of the Committee of persons incharge to such of the Presidents of P.A.C.Ss which are either found unfit or are said to have indulged in irregularities. While it is debatable whether executive instructions can ever explicitly exclude application of principles of natural justice, it is wholly unnecessary for us to delve on this issue as the impugned G.O.Ms.No.12 dated 31.01.2018 does not exclude the *audi alteteran partem* rule. The impugned order could not, therefore, have been passed without putting the first respondent on notice, and without giving him a reasonable opportunity of being heard.

Learned Special Government Pleader would then contend that the order under appeal should not be construed as disabling the appellants from complying with principles of natural justice, and thereafter passing an order afresh in accordance with law. He would further submit that, in any event, the Learned Single Judge could not have directed both the erstwhile members of the managing committee and the present members of the persons-in-charge committee to exercise control over the management of the P.A.C.S together; and if the first respondent was to continue, the proceedings dated 24.02.2018 ought to have been suspended. While exclusion of members of the persons-in-charge committee from the management of the affairs of the PACS along with the first respondent, would benefit the first respondent-writ petitioner as he would then be entitled to exclusively manage the affairs of the

¹ AIR 1987 SC 71

PACS, we find force in the submissions of the Learned Special Government Pleader that both of them could not have been asked to function together to manage the affairs of the P.A.C.S.

Accepting the submissions of the Learned Special Government Pleader, the proceedings dated 24.02.2018 shall remain suspended. The first respondent shall continue to manage the affairs of the P.A.C.S as a person-in-charge in terms of G.O.Ms.No.12 dated 31.01.2018. It is, however, open to the appellants herein to comply with principles of natural justice, and thereafter take action against the first respondent in accordance with law.

Suffice it to make it clear that the order now passed by us shall not disable the appellants from putting the first respondent on notice, give him a reasonable opportunity of being heard, and thereafter to pass a reasoned order in accordance with law.

The Writ Appeal is, accordingly, disposed of. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(KONGARA VIJAYA LAKSHMI, J)

Date:04th April, 2018.

cs