

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

W.P.No.13297 OF 2018

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

The petitioner is a Society registered on 29.01.2018. The petitioner complains against inaction on the Resolution dated 28.01.2018 and the said Resolution reads thus:-

“As per the Reorganization Act bifurcating the States, the State of Telangana enacted the provisions of M.A.C.S Act vide G.O.Ms.No.28, dated 19.4.2016 and the Hon'ble High Court suspended the said G.O in W.P MP No 28888/2016 etc in W P No. 23450/2016 and in view of that, there is no existence of M.A.C.S Act and the election notification issued to conduct the elections for the period 2016 has been challenged in W.P.No.36900/2016 and the Hon'ble High Court passed orders dated 4.11.2016 in WPMP.No.45452/2016 in WP 36900/2016 stating that the elections scheduled to be held on 5.11.2016 are subject to further orders in W.P.M.P. Thereafter, no further orders have been obtained by the elected Board of Directors and in view of the same, Board of Directors cannot discharge functions on behalf of the Society without any further orders from the Hon'ble Court in the said WPMP.No.45452/2016 in WP 36900/2016. The Board of Directors are involved in several irregularities and illegalities including the misuse/misappropriation of the funds and also figured as accused in Crime No.204/2017 before the CCSDD Hyderabad in relation to the Society affairs. The Board of Directors were disqualified on 7.1.2017 under Section 21(6) (c) of the Act for the failure to place the audited accounts before the General Body and also disqualified on 5.11.2017 for not conducting the elections for the 3 posts of the Directors under Section 21(6)(b) though they have obtained permission from the High Court to conduct the said elections. Even after making representations to the DCO, Hyderabad, he is not taking any steps. The Secretary is the authorised person to initiate legal proceedings of the Society as per the Bye-laws, but the President some times and the Treasurer some times are filing the cases on behalf of the Society and misusing the power. The Secretary and the Treasurer are expelled members as per the Enquiry Report dated 1.1.2014. In view of the above stated circumstances, the society is being run by the persons who were disqualified and expelled members. Due to the illegal activities and irregularities including the misuse of the funds and due to illegal demand of Rs.1 lakh and Rs.50,000/- from the members of the society in spite of having sufficient funds in the account of the society in the SBI High Court Branch, all the members of the society lost confidence in them in the discharge of their functions of the society and they have lost confidence”.

It can be straight away noted that the petitioner herein has come into existence after a New Executive Committee is elected for A.P. High Court Mutually Aided Co-operative Housing Society Limited and/or that the State of Andhra Pradesh is divided into the State of Andhra Pradesh and the State of Telangana. The disputes between the petitioner and 7th respondent Society have come to stay on the anvil of bifurcation of the State of A.P. The Resolution passed on 28.01.2018 is brought within the fold of Article 226 for a direction from this Court or declaration on the alleged inaction of official respondents against 7th respondent Society. The present writ petition was heard along with W.P.No.18935 of 2007, having regard to the direction issued therein. We are of the view that the consideration of this prayer at the instance of the petitioner Association by this Court does not arise. The petitioner is ill-advised in filing the present writ petition.

The writ petition fails and is, accordingly, 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

28th December, 2018
Prv