

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

W.P.No.39470 of 2017 and C.C.No.1167 of 2018

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

Heard Mr.K.V.Raghuveer for petitioners and
Mr.K.Chidambaram for 2nd respondent.

In terms of our order dated 17.09.2018, the writ petition and
connected Contempt Cases were listed for hearing along with
W.P.No.20123 of 2007 and batch. The order dated 17.09.2018 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.”

The petitioners are the employees of High Court of Judicature at Hyderabad working in different cadres. The petitioners are members of the A.P. High Court Employees Mutually Aided Co-operative Housing Society Limited. The 2nd respondent is a Society registered under the A.P. Mutually Aided Co-operative Societies Act, 1995. The petitioners are employees of High Court of Hyderabad

(previously High Court of Judicature of Andhra Pradesh at Hyderabad). The 2nd respondent Society, as we have considered in the companion writ petitions, which are disposed of by separate orders, is no different from any other Society registered under the provisions of the Societies Registration Act, the Co-operative Societies Registration Act or the A.P. Mutually Aided Co-operative Societies Act, 1995. For the purpose of disposing of writ petition and contempt case, these details are omitted or at least unnecessary and hence are not adverted to.

The petitioners in the instant writ petition challenge the 2nd show-cause notice dated 14.11.2017 issued by the 2nd respondent as without jurisdiction, illegal and arbitrary etc.

On 20.12.2017, this Court directed to post W.P.No.39470 of 2017 on 19.01.2018 in 'Motion List' and also placed on record the following statement made on behalf of 2nd respondent by its counsel Mr.K.Chidambaram.

"Mr.K.Chidambaram, learned counsel for 2nd respondent states that no further action will be taken till 20.01.2018."

C.C.No.1167 of 2018 is filed complaining disobedience of order dated 20.12.2017. The disobedience complained is that on 27.03.2018, the membership of writ petitioners was terminated with effect from 17.02.2018 as per bye-law No.4(c). The 2nd respondent through the termination order refunded Rs.400/- paid by each one of the petitioners towards membership fee.

The case of 2nd respondent is that the writ petition under Article 226 of the Constitution of India is not maintainable inasmuch as the 2nd respondent does not come within the purview of Article

12 of the Constitution of India. Further, the writ petition challenging show-cause notice is not maintainable. On facts, it is stated that the petitioners on account of deliberate acts of commission and omission have attracted disqualification and, therefore, show-cause notice was issued.

The petitioners filed reply and in no uncertain manner join issue with 2nd respondent on every circumstance stated by way of reply in the counter affidavit. It is one thing that a citizen or for that matter an employee, including an employee of the High Court invokes the jurisdiction of this Court under Article 226 either for enforcement of a right or resolution of a dispute within the four corners of law. But, the remedy under Article 226 is not available to quench the thirst bolstered ego problems of petitioners or respondents, particularly the employees of High Court. It appears to this Court that the petitioners are miffed by the very fact that a notice is issued calling upon them to explain on a few observations referred in the show-cause notice dated 14.11.2017. At the outset, we are of the view that this sundry and ancillary matters of Societies are not as matter of course ought to be entertained by this Court under Article 226 of the Constitution of India. On the ground that an order of termination is already passed, the writ petition could be thrown out as there is no amendment petition challenging the termination order dated 27.03.2018. However, we refrain from taking recourse of such conclusion, for in the accompanying batch of writ petitions, the entire controversy is examined in great detail and orders as are warranted have been made. Keeping in view the consideration of larger issue in the accompanying batch of

cases viz., W.P.No.18935 of 2007 and also that the 2nd respondent after making a statement in the Court on 20.12.2017 ought not to have proceeded to pass the termination order dated 27.03.2018 against the petitioners herein or similarly situated employees. The ends of justice are met, this Court, if exercises its jurisdiction under Article 226 and for the purpose of disposing of the contempt case as well, though the order of termination dated 27.03.2018 is not challenged, but could consider passing orders as are deemed fit, on the ground that the writ petition when is pending, without receiving explanation or reply of the petitioners, the 2nd respondent ought not to have proceeded to terminate the membership of petitioners vide order dated 27.03.2018. The termination order has its genesis to the challenge laid to the show-cause notice in W.P.No.39407 of 2017.

This Court is also not examining whether the statement recorded on 20.12.2017 is to be understood as till the next date of hearing or when the writ petition is not listed and when both the parties failed to take steps to get the writ petition listed, how the said order would have to be interpreted whether as until further orders or restricted to the period for which it was granted.

The termination order dated 27.03.2018 is set aside as violative of principles of natural justice and passed when the writ petition is pending etc. The petitioners are given three weeks time from today to submit reply to the show-cause notice impugned in the writ petition and raise all objections available in law and fact against the show cause notice impugned in the writ petition and it is for the 2nd respondent to consider and dispose of the show cause

notice objectively. Needless to observe that the observations made in the companion W.P.No.18935 of 2007 and sundry issues are given quietus in a decent way in accordance with law.

The writ petition is disposed of as indicated above. In view of the orders passed in W.P.No.39470 of 2017, without expressing a view on the alleged disobedience complained by petitioners, C.C.No.1167 of 2018 is closed, and it is open to the petitioners to avail the opportunity given by this Court for submitting reply to the show-cause notice dated 14.11.2017. No order as to costs.

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

THOTTA THIL B. RADHAKRISHNAN, CJ

S.V.BHATT, J

28th December, 2018
Prv

