

**THE HON'BLE SRI JUSTICE M.GANGA RAO**

**WRIT PETITION No.10612 OF 2001**

**ORDER:**

Petitioner, who is working as a clerk in the first respondent-  
The Primary Agricultural Cooperative Society Limited, Maldakal,  
(for short 'Society'), filed this Writ Petition seeking to issue a writ of  
Mandamus with the following reliefs:

- (1) declaring the action of the respondents 2 to 4 directing the 1<sup>st</sup> respondent Society to remove the petitioner from service through proceedings of the 2<sup>nd</sup> respondent vide Rc.No.1802/2000-E, dated 15.11.2000 as illegal, arbitrary and unconstitutional apart from being violative of principles of natural justice and against the powers vested in them under A.P. Cooperative Societies Act and the rules framed thereunder and set aside the same; consequently
- (2) direct the 1<sup>st</sup> respondent Society to continue the petitioner as Clerk; and

Brief facts of the case are that initially the petitioner was appointed as a clerk at Primary Agriculture Cooperative Society (PACS) Gattu, in sanctioned and vacant post on 29.09.1994. Thereafter, he was shifted to the first respondent Society in a sanctioned and vacant post of Clerk through Resolution passed by the first respondent dated 30.10.1995 and since then he has been working at Maldakal. Petitioner has completed Junior Diploma in Cooperation in the month of May, 2000 and he has completed his Graduation in the year 1998. While things stood thus, the second respondent through proceedings dated 15.11.2000 in Rc.No.1802/2000-E, based on the Circular issued by the 4<sup>th</sup> respondent in relation to the ban on recruitment and the

instructions issued by the Minister for Cooperation, has directed the first respondent Society to remove the petitioner from service and warned the President of the first respondent Society otherwise the proceedings will be issued under Section 34 (1) of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Societies Act'), if the orders passed by the second respondent are not given effect to. Being aggrieved by the orders of second respondent dated 15.11.2000 and apprehending termination of his services, in pursuance thereof, petitioner filed the present writ petition.

Sri Nandigam Krishna Rao, learned counsel appearing for the petitioner, would contend that the petitioner was shifted to first respondent Society on 30.10.1995 as a Clerk from PACS, Gattu, and since then he has been working without any complaint whatsoever. The second respondent issued proceedings dated 15.11.2000 directing the first respondent Society to terminate the services of the petitioner, otherwise, proceedings will be issued under Section 34 (1) of the Societies Act, if proceedings dated 15.11.2000 are not given effect to. He would further contend that in a batch of Writ Petitions in W.P.No.21494 of 2000 & batch, disposed of vide common order dated 06.03.2002, this Court directed the respondents to take appropriate decision as per the provisions of Section 116-C of the Act and thus he submits that the present writ petition may be disposed of in terms of the common order passed in W.P.No.21494 of 2000 & batch.

This Court on 23.05.2001 while admitting the Writ Petition granted interim stay not to terminate the services of the petitioner until further orders.

No counter affidavit is filed on behalf of respondents.

Learned Government Pleader for Agriculture would submit that the petitioner was appointed contrary to the provisions of Section 116-C of the Societies Act and the first respondent Society has to implement the impugned memo dated 15.11.2000. However, he has not disputed the contention of the learned counsel for the petitioner with regard to disposal of similar writ petitions by this Court in W.P.No.21494 of 2000 & batch.

In the facts and circumstances of the case and in considered view of this Court, the petitioner was initially appointed as a Clerk in PACS, Gattu, and thereafter he was shifted to the first respondent Society in the sanctioned and vacant post of Clerk by resolution dated 30.10.1995 and since then he has been working as such. Petitioner is fully qualified and eligible to be appointed as a Clerk in the first respondent Society as he possessed Graduation and also Junior Diploma in Cooperation.

Issuance of Memo dated 15.11.2000 cannot be said to be illegal or arbitrary in the light of the decision rendered by this Court in W.P.No.21494 of 2000 & batch wherein this Court observed as follows:

“ ... most of the Societies in the State are under the Management of the per-in-charge Committees and no steps are taken to submit the proposals with regard to the staffing pattern, pay scales, etc. as required under Section 116-C of the Act for the approval of the Registrar. In spite of circular instructions dated 21.01.1988 issued by the Registrar, the District Cooperative Officers in the State did not obtain any particulars in respect of the PACS and submit their reports to the Commissioner of Cooperation and Registrar of Cooperative Societies. The Commissioner of Cooperation and Registrar of Cooperative Societies shall consider as to the need and desirability of

issuing any fresh instructions in order to enforce the circular instructions issued in Rc.No.6093/88 CP (B) dated 21.1.1988, as most of the Societies are stated to be under the Management of the Officers, who are appointed as person-in-charge of the Societies to manage their affairs.

It is appropriate to direct the Registrar of Cooperative Societies to consider as to whether any further directions in this regard are required to be issued to put an end to this controversy. An appropriate decision in this regard shall be taken by the Registrar as expeditiously as possible.”

Since the issue involved in this writ petition is squarely covered by the earlier adjudication of this Court in W.P.No.21494 of 2000 & batch disposed on 06.03.2002, this Writ Petition is also disposed of in terms thereof.

Miscellaneous petitions pending in this petition, if any, shall stand closed. There shall be no order as to costs.

7<sup>th</sup> September, 2018  
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**(M.GANGA RAO, J)**