

THE HON'BLE SRI JUSTICE A.V.SESHA SAI

W.P.No.18490 of 2018

ORDER:

Heard the learned counsel for the petitioners and the learned Government Pleader for Fisheries, appearing for the Respondents 1 to 4.

2. According to the petitioners, they are the members of the Managing Committee of Fishermen Cooperative Society, Manakondur and they got elected as such on 17.3.2015 for a period of five (5) years. There are nine (9) Directors of the Managing Committee in the said society and the petitioners herein are six among them. On 19.3.2018, they submitted a requisition to the 4th respondent under Section 34-A of the Telangana State Cooperative Societies Act, 1964, requesting to initiate action of no confidence against the President of the Society. The District Fisheries Officer, Karimnagar addressed a letter to the Commissioner of Fisheries vide letter bearing 140/D/2018 dated 20.3.2018, stating that he has no power nor jurisdiction to take action on the said requisition and requested for necessary action. Thereafter, the Joint Director of Fisheries, office of the Commissioner of Fisheries vide letter No.1692/B2/18 dated 4.5.2018 informed the petitioners that the petitioners did not show any evidence in support of their allegations against the President and asked the petitioners to submit evidence to show the irregularities on the part of the President. According to the learned counsel for the petitioners, the impugned action on the part of the Respondent authorities is illegal, arbitrary, unreasonable and tantamounts to abdication of powers conferred under the statute. In elaboration, it is submitted by the learned counsel that as per the orders of the State Government issued vide G.O.Rt.No.16 Agriculture and Cooperation (Coop.II) Department dated 9.1.2017, the District Fisheries Officer is the competent

authority to take action under Section 34-A of the Telangana Cooperative Societies Act, 1964 and the Joint Director has absolutely no authority nor jurisdiction to deal with the present issue and cannot ask any evidence in support of the allegations. It is further submitted that once an application is filed under Section 34-A, it is mandatory on the part of the competent authority to take action.

3. In order to resolve the issues in the present writ petition, it may be appropriate to refer to Section 34-A of the Telangana Cooperative Societies Act, 1964. The said provision of law reads as under:

“34-A. Motion of no-confidence in the President and Vice-President of the committee:

(1) A motion expressing want of confidence in the President or the Vice-President of a Committee may be made in accordance with the procedure laid down in the following sub-sections. (2) A written notice of intention to make the motion, in such form as may be prescribed, signed by not less than one-half of the total number of members of the Committee together with a copy of the proposed motion shall be delivered in person, by any two of the members signing the notice, to the Registrar having jurisdiction over the Society.

Explanation:- For the removal of doubts, it is hereby declared that for the purposes of this section, the expression “total number of members of the Committee” shall mean the total number of elected members inclusive of its President and Vice-President but irrespective of any vacancy existing in the office of member at the time of meeting.

(3) The Registrar shall then convene a meeting for the consideration of the motion at the office of the society on a date appointed by him which shall not be later than thirty days from the date on which the notice under sub-section (2) was delivered to him. He shall give to the members notice of not less than fifteen clear days of such meeting in such manner as may be prescribed : Provided that where the holding of such meeting is stayed by an order of a Court the meeting shall be adjourned, and the Registrar

shall hold the adjourned meeting on a date not later than thirty days from the date on which he received the intimation about the vacation of stay, after giving to the members notice of not less than fifteen clear days of such adjourned meeting.

(4) The quorum for such a meeting shall be majority of the total number of members of the Committee and the Registrar shall preside at such meeting. If within half an hour after the time appointed for the meeting the Registrar is not present to preside at the meeting, the meeting shall stand adjourned to the next day.

(5) If the Registrar is unable to preside at the meeting he may after recording his reasons in writing adjourn the meeting to the next day to be presided over

either by himself or by an officer authorised by him in his behalf.

The person authorised under this sub-section shall be deemed to be the Registrar for purposes of sub-sections (7), (10) and (11).

(6) Save as provided in sub-sections (3), (4) and (5) a meeting convened for the purpose of considering a motion under this section shall not for any reason be adjourned. (7) As soon as the

meeting convened under this section commences the Registrar shall read to the Committee the motion for the consideration of which the meeting has been convened and declare it to be open for debate, 1. Inserted by Act No. 21 of 1985, w.e.f. 3-6-1985. A.P.

Cooperative Laws A.P. Cooperative Societies Act 1964 (8) No debate on the motion under this section shall be adjourned. (9)

Such debate shall automatically terminate on the expiration of two hours from the time appointed for the commencement of the meeting if it is not concluded earlier. On the conclusion of the

debate or on the expiration of the said period of two hours, whichever is earlier, the motion shall be put to vote. (10) The

Registrar shall not speak on the merits of the motion and he shall not be entitled to vote thereon. (11) If the motion is carried 1[with

the support of not less than two thirds of the total number of members] of the Committee, the Registrar shall by order remove

the President or, as the case may be, the Vice-President and the resulting vacancy shall be filled in the manner prescribed. (12) If

the motion is not carried by such a majority as aforesaid or if the meeting could not be held for want of a quorum, no notice of any

subsequent motion expressing want of confidence in the same President or, as the case may be, the Vice-President shall be made

until, after the expiration of the one year from the date of the

meeting. (13) No notice of a motion under this section shall be made within one year of the assumption of office by a President or the Vice-President. 2[(14) The provisions of this section shall not apply in respect of President of any co-operative society elected by the members of the general body from among themselves.]”

4. It is very much evident from the above provision of law that when a majority of totally elected members with a written notice of intention to move no confidence motion signed by not less than one half of the total elected members of the Committee come forward, it is incumbent on the part of the Registrar to convene a meeting for consideration of the said motion. It is also required to be noted that as per Sub-section 4 of Section 34 of the Act, the quorum for such a meeting shall be majority of the total number of members of the Committee. The procedure for holding such meeting is stipulated under Rule 24-A of the Telangana Cooperative Societies Rules, 1964. A reading of the above said provision of law makes it abundantly clear that a written notice, atleast by one-half of the total members is sufficient for moving the motion. There is absolutely no necessity on the part of the members moving the no confidence motion to make available the evidence in support of the allegations, as observed by the Joint Director of Fisheries in the above mentioned letter dated 4.5.2018.

5. Coming to the authority competent to deal with the present issue – according to the orders of the Government vide G.O.Rt.No.360 dated 18.7.2016, the State Government delegated powers of the Registrar under Cooperative Societies Act, except Sections 17, 18, 22, 32(7), 34, 37, 47(2), 50, 64(1), 68, 69, 76, 77, 78, 84 to 115 and 116. By way of G.O.Ms.No.16 Agriculture and Cooperation (Coop.II) Department dated 9.1.2017, the State

Government delegated the above said powers in favour of District Fisheries Officer. Paragraphs 3 and 4 of G.O.Rt.No.16 dated 9.1.2017 read as under:

“3. In the reference 3rd read above, the Commissioner for Cooperation and Registrar of Cooperative Societies, Telangana, Hyderabad has requested to issue necessary orders amending the G.O.Rt.No.360, A&C (Coop.II) Department dated 18.7.2016 for effective utilization of the powers delegated under Telangana Coop. Societies Act, 1964 by the newly created District Fisheries Officers in the districts of Telangana for regulating the functioning of Fishermen Coop. Societies.

4. Government after careful examination of the matter, hereby amend the G.O.Rt.No.360, A & C (Coop.II) Department dated 18.7.2016 as following for effective utilization of the powers delegated under Telangana Coop. Societies Act, 1964 by the newly created District Fisheries Officers in the districts of Telangana for regulating the functioning of Fishermen Coop. Societies.

Sl.No.	Authorities	Powers conferred under Telangana Cooperative Societies Act 1964
1.	Director	All the powers of Registrar except Sections 50, 84 to 115.
2.	Dy. Director	All the powers of Registrar except Sections 50, 84 to 115.
3.	District Fisheries Officers	All the powers of Registrar except Sections 17, 18, 22, 32(7), 34, 47(2), 50, 64(1), 68, 69, 76, 77, 78, 84 to 115 and Section 116.

6. It is very much evident from a reading of the above paragraphs that the Government has delegated the powers of the Registrar in favour of District Fisheries Officer. Therefore, the version of the District Fisheries

Officer that he is not the competent authority to take action on the application of the petitioners herein for moving no confidence motion, cannot be sustained. In the considered opinion of this Court, the District Fisheries Officer alone is the authority competent to take action under Section 34-A of the Telangana Cooperative Societies Act, 1964.

7. For the aforesaid reasons, the writ petition is allowed, directing the 4th respondent herein to take action on the requisition dated 19.3.2018 submitted by the petitioners herein under Section 34-A of the Telangana Cooperative Societies Act, 1964 and take further action strictly in accordance with law under the said provision of law. As a sequel, the miscellaneous petitions, if any, shall stand closed. There shall be no order as to costs.

Date: 27.6.2018
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A.V.SESHA SAI, J

THE HON'BLE SRI JUSTICE A.V.SESHA SAI



27.6.2018

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