

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN
AND**

THE HON'BLE MS JUSTICE J.UMA DEVI

**Writ Appeal Nos.848 and 851 of 2018
&
Writ Petition No.19702 of 2018**

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

Heard the learned Additional Advocate General appearing on behalf of the appellants in W.A.No.848 of 2018, Sri K.G.Krishna Murthy, learned Senior Counsel appearing on behalf of the appellants in W.A.No.851 of 2018, and Sri R.N. Hemendranath Reddy, learned counsel for the respondents-writ petitioners.

Both these writ appeals are preferred against the common order passed by the Learned Single Judge in I.A.No.1 of 2018 in W.P.No.19702 of 2018 dated 13.06.2018. The appellants in W.A.Nos.848 and 851 of 2018 are respondents 1 to 3 and respondents 5 to 20 respectively in W.P.No.19702 of 2018. Respondents 1 to 6 in both the appeals filed the said writ petition seeking a mandamus to declare the action of the District Cooperative Officer/the Joint Registrar of Cooperative Societies, Hyderabad (3rd respondent in W.P.No.19702 of 2018) in issuing the notice dated 18.06.2018, and the consequential order dated 01.06.2018, as illegal, arbitrary, unconstitutional and violative of principles of natural justice. A consequential direction was sought to permit the writ petitioners to perform their functions as Directors of the Society.

In the order under appeal, the Learned Single Judge observed that, since it was not disputed by the appellants that most of the members of the Society were presently employed in the State of Andhra Pradesh, including some of the respondent-writ petitioners, instead of sending the notice dated 10.05.2018 to the addresses of the office-bearers of the Society at Andhra Pradesh, sending it to the Hyderabad address of the Society did not appear to be proper; if there was no quorum on

31.05.2018 at 11:00 am for the general body meeting of the Society, the meeting should have been adjourned, as per bye-law 14(b) of the Bye-laws of the Society, to a different date, and not to a different time on the same day; and, therefore, a *prima facie* case had been made out by the writ petitioners for grant of an interim order particularly when, according to the election schedule, at 6:00 pm on the same day, candidates would be declared as elected in case the final list of candidates does not exceed the total available seats for which elections were held. The Learned Single Judge opined that, if no interim order was granted, it would amount to a *fait accompli*, and grave and irreparable loss would be caused to the writ petitioners. Aggrieved thereby, the present writ appeals are filed.

While elaborate submissions were made both by the learned Additional Advocate General and Sri K.G.Krishna Murthy, learned Senior Counsel, that, once an election notification is issued, this Court, in the exercise of its extra-ordinary jurisdiction, under Article 226 of the Constitution of India, would not interfere; the two reasons which weighed with the Learned Single Judge, in granting interim relief, are not tenable, as the Bye-laws of the Society show the address of the Andhra Pradesh Non-Gazetted Officers (Gachibowly) Mutually Aided Co-operative Housing Society Limited as “5-9-1112 Chaitanya, Gunfoundry, Hyderabad 500 029; notices were sent, to the very same address, initially by special messenger and later by DTDC courier; since both the notices were returned un-served, the Registrar had perforce to proceed, and take action in accordance with law; the obligation in law is for a notice to be sent only to this address; even otherwise, the respondents-writ petitioners have not furnished their addresses, in the State of Andhra Pradesh, to which notices are required to be sent; and the appellants cannot be faulted for not being able to send notices to an address not

even known to them. While elaborate submissions are also made, regarding the validity of the adjourned meeting, it is unnecessary for us to dwell on these aspects, since we are satisfied that the proceedings dated 18.05.2018 is liable to be set aside on the ground that it is bereft of reasons.

By the notice issued to the Society on 11.01.2017, the Board of Directors of the Society were called upon to show cause why action, under Section 38 of the Telangana State Mutually Aided Co-operative Societies Act, 1995, should not be initiated against the President and each of the office bearers for not furnishing (1) annual report of activities; (2) annual audited statement of accounts with auditor's report; (3) list of members as at the close of the year along with the service provided to each member; (4) statement on the disposal of surplus or on the allocation of deficit; (5) list of names of directors, their addresses and their term of office; and (6) compliance report to audit, special audit and inquiry, if any.

The respondents-writ petitioners submitted their reply on 09.02.2017 stating that they had been submitting their annual returns, from the very inception until 2012, immediately after the general body meeting was held; from 2013 only i.e four annual returns for the years 2013, 2014, 2015 and 2016 could not be furnished; while it is a pre-requisite to hold a general body meeting to furnish the annual return, the general body meeting, proposed to be held in the year 2013, was adjourned for want of quorum; the general body meeting, proposed to be held in the year 2014, was cancelled as per the directions issued by the District Co-operative Officer vide letter dated 19.05.2014; during the year 2015 and 2016, they could not hold the general body meeting, due to litigation in the High Court; in W.P.M.P.No.24418 of 2014 in W.P.No.19504 of 2014 dated 25.08.2014, it has not permitted to hold the

meeting; during the period August 2013, the District Co-operative Officer, as well as the officials of the CCS, Hyderabad, had frozen the bank account of their Society; for want of funds, the Society was unable to hold the general body meeting; to hold a general body meeting, funds were required for publication of the meeting notice in the newspapers, meeting hall rent, tent house charges for chairs and mike set and other miscellaneous charges; for the last four years, the Society was facing severe financial crunch; it was not able to hold meetings, file returns to the Government, refund share capital and development charges to the members who had applied for cancellation of their membership, and salaries to only one employee i.e office manager; failure to submit annual returns was due to the legal stalemate and crunch of funds; and it was not wilful. The District Co-operative Officer was requested not to take any action on the show cause notice, and was requested to request the High Court to release funds to incur expenditure to hold the general body meeting, and to file returns to the Government.

Both the show cause notice and the reply are referred to in the proceedings dated 18.05.2018. While the order is, no doubt, elaborate, all that the Registrar has stated, with regards the reply submitted by the respondents-writ petitioners, is that the explanation submitted by them, by their letter dated 09.02.2017, was not convincing. As action is sought to be taken against the respondents-writ petitioners, for their failure to submit annual returns and the other documents referred to in the show cause notice, it was obligatory on the part of the Registrar to consider the reply submitted by them, and pass a considered and reasoned order. While several other aspects are referred to in the proceedings dated 18.05.2018, the explanation furnished by the respondents-writ petitioners, for their inability to hold a general body meeting, which is a

pre-requisite for the annual return to be approved and filed, has not been dealt with by the Registrar.

As the subsequent proceedings dated 01.06.2018 is as a consequence of the earlier proceedings dated 18.05.2018, and as we are satisfied that the proceedings dated 18.05.2018 necessitates being set aside on the ground that the reply submitted by the respondents-writ petitioners on 09.02.2017 has not been considered and dealt with, the consequential proceedings dated 01.06.2018 must also be set aside.

We make it clear that setting aside the aforesaid orders would not disable the authorities from taking action afresh in accordance with law. The difficulty, however, arises as to how the appellants can take further action in accordance with law. As a result of the A.P. Re-organisation Act, 2014, and the consequent bifurcation of the erstwhile State of Andhra Pradesh into two new States, some members of the erstwhile Andhra Pradesh Non-Gazetted Officers' Mutually Aided Co-operative Housing Society Limited are presently working in Telangana, while some others are working in the present State of Andhra Pradesh. The President and Secretary of the Society are employees working under the Government of Andhra Pradesh.

Sri R.N.Hemendranath Reddy, learned counsel for the respondents- writ petitioners, would submit that the respondents-writ petitioners have cast aspersions on the authorities, and they have expressed serious reservations on the manner in which the notices were sought to be served on the Society. With a view to avoid recurrence of such disputes in future, we consider it appropriate to direct the respondents-writ petitioners, and the other Directors of the Society, to furnish their addresses, in the State of Andhra Pradesh, to the Registrar within one week from today, to enable the latter to effect service of notices on them. This information shall be furnished by the

respondents-writ petitioners to the Registrar, by Registered Post with Acknowledgment Due, within one week, to avoid any future controversy whether or not they had intimated the change of addresses to the Registrar. The Registrar shall issue notices to the subject Society, and serve copies thereof on the respondents-writ petitioners by Registered Post with Acknowledgment Due, both to the address of the Society at Hyderabad and to the addresses now furnished by the respondents-writ petitioners. Failure on the part of the respondents-writ petitioners to furnish the addresses to the Registrar, within the aforementioned period, would enable the Registrar to effect service of notices, by Registered Post with Acknowledgment Due, to the Society at its address at Hyderabad, and take further action thereafter in accordance with law.

Since Learned counsel on either side are in agreement that, in the light of the order now passed by us, the cause in the Writ Petition no longer survives, both the Writ Appeals and the Writ Petition are disposed of accordingly. Miscellaneous Petitions pending, if any, shall also stand disposed of. There shall be no order as to costs.

(RAMESH RANGANATHAN, ACJ)

(J.UMA DEVI, J)

27th June, 2018
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Date: 27.06.2018

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