

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.7921 OF 2007

O R D E R:

This Writ Petition is filed aggrieved by the proceedings dated 29.03.2007 in C.T.A.No.4 of 2007, on the file of the 2nd respondent-A.P. Cooperative Tribunal at Warangal, confirming the order of the 1st respondent-Deputy Registrar of Cooperative Societies, Warangal, dated 03.02.2007, which disqualified the petitioner from holding the post of Director, Primary Agricultural Cooperative Society Ltd., Warangal, with immediate effect, exercising the powers conferred under Section 21-A.1(c) of the A.P. Cooperative Societies Act.

Heard the learned counsel for the petitioner and the learned Government Pleader for Cooperation.

The proceedings in Rc.No.1588/200-D, dated 03.02.2007, came to be issued on account of the fact that surcharge proceedings, dated 14.09.2004, were issued against the petitioner, finding him liable to pay a sum of Rs.1,52,478/-. The said order was challenged by the petitioner before this Court by filing W.P.No.12668 of 2005, which was dismissed on 20.12.2006, on the ground of availability of alternative remedy of appeal before the 2nd respondent-Cooperative Tribunal. Then the petitioner filed C.T.A.No.2 of 2007 before the 2nd respondent on the ground that the said proceedings were initiated simply based on the report under Section 51 of the Act and that there was no independent enquiry conducted. However, while the matter was pending before the 2nd respondent, the 1st respondent had issued a Show Cause Notice, dated 09.01.2007, under Section 21-A.1(c) of the Act, to the petitioner, calling for his explanation as to why he should not be disqualified based on the surcharge proceedings dated 14.09.2004 in relation to PACS, Tharigoppula Society, which was later merged with PACS, Narmetta-3rd respondent and without giving any opportunity to submit his

explanation or hearing, the 1st respondent passed the order, dated 03.02.2007, disqualifying him from the Managing Committee. Therefore, he challenged the said order in C.T.A.No.4 of 2007 before the 2nd respondent and the same was also dismissed, on 29.03.2007, on the ground that there is no stay in C.T.A.No.2 of 2007 against the surcharge proceedings pending before the 2nd respondent.

Now, it is brought to the notice of this Court that W.P.No.14757 of 2007 filed questioning the order in C.T.A.No. 2 of 2007, dated 29.03.2007, came to be allowed leaving it open to the respondent authorities to conduct fresh enquiry in terms of Section 60(1) of the Act. The challenge to the order in C.T.A. No.2 of 2007 is that the surcharge proceedings issued, holding the petitioner for a sum of Rs.1,54,478/-, vide orders dated 14.09.2014, came to be nullified. In other words, the pre-requisite condition that is required to be satisfied in terms of Section 21 (1)(c) of the Act is no longer in existence. In those circumstances, the Writ Petition deserves to be allowed setting aside the proceedings of the 1st respondent, dated 03.02.2007, as confirmed by the 2nd respondent in C.T.A.No. 4 of 2007, as of now.

Accordingly, the Writ Petition is allowed. Consequently, it is made clear, there is no embargo on the petitioner's right to contest for directorship of the society, in future, in which event, the same is required to be considered independent of the earlier proceedings. No costs.

Consequently, the Miscellaneous Applications pending, if any, shall stand closed.

CHALLA KODANDA RAM, J

Date: 12.11.2018

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