

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

WRIT APPEAL No.949 OF 2017

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

Heard Mr. M.Rajamalla Reddy for appellant and the learned Government Pleader (Cooperation) for respondents.

The writ petitioner is the appellant. W.P.No.15153 of 2010 was filed declaring Rc.No.1559/2009-G dated 12.04.2010 of the District Cooperative Officer/1st respondent herein appointing Sub-Divisional Cooperative Officer/Enquiry Officer to conduct enquiry under Section 51 of the A.P. Cooperative Societies Act, 1964 (for short 'the Act') as illegal, arbitrary and unconstitutional.

The appellant challenges notice dated 12.04.2010 and contends that the enquiry was already ordered and the report was also submitted in proceedings dated 24.06.2009. Therefore, fresh enquiry for the same allegations is illegal and contrary to Section 51 of the Act. The factual and legal objections are examined firstly by taking note of proceedings dated 24.06.2009 and the order of the learned Single Judge.

Prima facie, we are of the view that the understanding of appellant of proceedings dated 24.06.2009 is incorrect. The said proceedings refer to examining the possibility of ordering enquiry

under Section 51 of the Act, but not orders enquiry under Section 51, whereas the proceedings dated 12.04.2010 by referring to the requirements of Section 51 of the Act orders enquiring against appellant Society. The operative portion of the order under appeal reads thus:

“Learned counsel for the petitioner Society submits that the earlier enquiry conducted pursuant to the order of the second respondent dated 24.06.2009 itself was an enquiry under Section 51 of the Act and there cannot be any further enquiry pursuant to the orders of the first respondent. I am not in agreement with the said submission made by the learned counsel for the petitioner Society, as I have carefully perused the Telugu version of the proceedings dated 24.06.2009 which merely calls for a report from the third respondent in order to examine the possibility for ordering enquiry under Section 51 of the Act. At no point of time the third respondent was directed to conduct an enquiry under Section 51 of the Act. Now, the first respondent, being the competent authority appointed the third respondent as Enquiry Officer and in pursuance of the same, the third respondent issued the proceedings to the petitioner Society for production of registers and this Court sees no illegality in such action. Learned counsel for the petitioner also submits that there is no provision for preliminary enquiry in the A.P. Cooperative Societies Act and the stand taken by the respondents is untenable. In view of the proceedings issued by the second respondent on 24.06.2009, I am of the opinion that the ARLR, J W.P.No.15153 of 2010 4 second respondent is entitled to call for a report from his subordinate in order to satisfy himself with regard to further action to be taken on the complaint received from the members of the petitioner Society. Though the learned counsel for the petitioner sought to place reliance on a decision reported in Mohinder Singh Gill v. Chief Election Commissioner, New Delhi¹, the ratio laid down in the said case is not applicable to the facts of the present case. In the circumstances, the Writ Petition is devoid of merit and the same is liable to be dismissed.”

We are in complete agreement with the view expressed by the learned Single Judge.

The writ appeal fails and is, accordingly, dismissed. No order as to costs.

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

THOTTATHIL B. RADHAKRISHNAN, CJ

12th September, 2018

Lrkm

S.V.BHATT, J

