

HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 33186 OF 2018

ORDER:

1) The present writ petition came to be filed seeking issuance of writ of mandamus declaring the proceedings of the Assistant Director of Handlooms and Textiles, Srikakulam, in Pc.No.89/ 2018-B, dated 23.08.2018 as illegal, improper and without jurisdiction.

2) The facts which lead to filing of the present writ petition are as under:

The petitioner herein is a member of Sri Mallikarjuna Weavers Co-operative Society Limited, which is registered under the provisions of the Co-operative Societies Act. Elections to the Managing Committee of the said society were held in the month of February, 2013. The term of the committee came to an end in the month of February, 2018. As elections to the said society could not be conducted within the time prescribed, the Government, in exercise of its powers issued a memo dated 24.01.2018, permitting the second respondent herein to appoint the existing managing committee of Primary Handloom Weavers Co-operative Society as person-in-charge, to manage the affairs of the society. Pursuant there to the second respondent directed the third

respondent to appoint the outgoing managing committee of the fourth respondent society as person-in-charge for a period of six months. Proceedings came to be issued on 11.02.2018 to that effect. However, the fourth respondent society was not inclined to take charge of the affairs of the society. In the said circumstances, the third respondent appointed Development Officer, Handlooms and Textiles, Srikakulam, as official person-in-charge for a period of six months in exercise of power under Section 32 (7) (a) of the Andhra Pradesh Cooperative Societies Act, 1964 (for short "the Act"), though the period of six months of the official person in-charge was upto 05.09.2018. The second respondent vide its proceedings dated 21.08.2018 directed the third respondent to appoint a non-official person-in-charge committee consisting of persons named in the said communication. Proposals for ratification came to be sent, which is subject matter of challenge in the present writ petition.

3) The main ground urged by the learned counsel for the petitioner is that the second respondent, as well as the third respondent acted beyond their power, in appointing the non-official person-in-charge committee fixing the period of their office for a period of one year or till the conduct of elections, whichever is earlier, which is contrary to the provisions of the Act.

4) A counter came to be filed by the third respondent disputing the averments made in the affidavit filed in support of the writ petition. It is stated in the counter that the action of the second respondent in directing the third respondent to appoint non-official committee under Section 32 (7) (a) of the Act cannot be said to be in violation of any law. It is stated that the second respondent appointed a non-official committee only after satisfying himself that they can manage the affairs of the society and the inspecting officer appointed under Section 52 of the Act never doubted any of the members of the 3 Men committee in the process of enquiry.

5) The fourth respondent filed his counter reiterating the contents of the counter filed on behalf of the third respondent. It is stated that under Section 32 (7) (a) (i) of the Act, the Governor or Registrar has got the power to appoint person or persons to manage the affairs of the society for a period not exceeding six months. Since the appointment came to be made till holding of the elections, the action of the second respondent cannot be said to be illegal.

6) As seen from the contents of the material filed before the Court, the term of the committee expired in the month of February, 2018 and the person-in-charge for managing the affairs of the society came to be appointed for a period of six months, which expires in the month of September, 2018. As

seen from the record, the Development Officer, Handlooms and Textiles, Srikakulam, was appointed as Official person-in-charge for a period of six months in exercise of powers conferred under Section 32 (7) (a) (i) of the Act. Even before the expiry of the said term, the second respondent instructed the third respondent to appoint non-official person-in-charge committee consisting of three persons, as members of the said committee. It appears that the proceedings dated 21.08.2018 came to be made basing on the representation of the Weaver members of the Society addressed to the Hon'ble Minister of Handlooms and Textiles. No reasons are given in the said proceedings, as to why a committee of three members of the society was picked up and appointed as person-in-charge of the said society, replacing the official person-in-charge, whose term is said to be expired. The subsequent proceedings dated 23.08.2018 is also silent as to why a non-official person-in-charge committee came to be appointed replacing the official person-in-charge. Apart from that, it is also to be noted here that while appointing a non-official person-in-charge committee, the Assistant Director, Handlooms and Textiles, fixed the period as one year from 23.08.2018 or till the conduct of elections of the society whichever is earlier. Reading of the above makes it clear that the period for which

the non-official person-in-charge committee came to be appointed was for one year, which is illegal.

7) In order to appreciate the same it would be appropriate to refer to Section 32 (7) (a) (i) of the Act, which reads as under:

“32. General meetings and committee meetings:

Xxxxxx

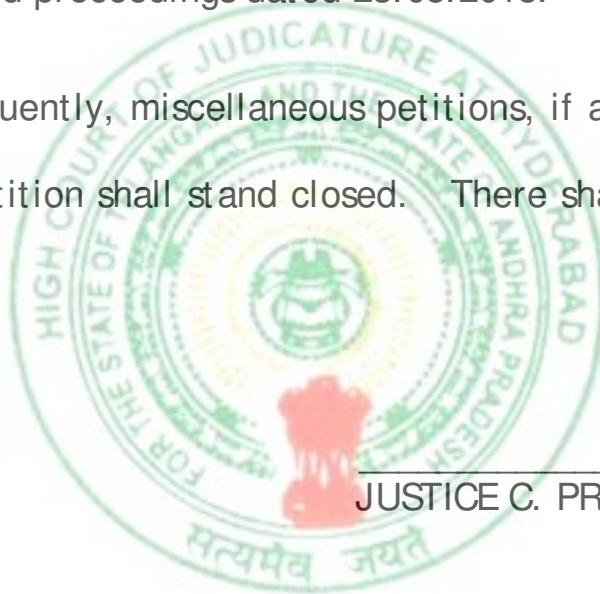
(7) (a) (i): If there is no committee or in the opinion of the Government or, the Registrar, it is not possible to call a general meeting for the purpose of conducting election of members of the committee, the Government, in respect of such class of societies as may be prescribed and the Registrar in all other cases may appoint a person or persons to manage the affairs of the society for a period not exceeding six months and the Government may, on their own and the Registrar with the previous approval of the Government, extend, from time to time, such period beyond six months, so however that the aggregate period include the extended period if any, shall not exceed three years.”

8) A reading of the above provision makes it very clear that the authority concerned may appoint a person or persons to manage the affairs of the society for a period not exceeding six months and the Government may, on their own and the Registrar with the previous approval of the Government, extend from time to time, such period, beyond six months.

But by no stretch of imagination can the term of person-in-charge of the society be fixed as one year. Therefore, the order appointing a non-official person-in-charge committee for a period of one year or till the elections are held, whichever is earlier replacing the official person-in-charge committee before its expiry, in my view appears to be contrary to Section 32 (7) (a) (i) of the Act.

9) Accordingly, the Writ Petition is allowed setting aside the impugned proceedings dated 23.08.2018.

10) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed. There shall be no order as to costs.



JUSTICE C. PRAVEEN KUMAR

30.11.2018
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