

THE HON'BLE SRI JUSTICE A. RAMALINGESWARA RAO

WRIT PETITION.NO. 33191 OF 2017

ORDER:

Heard the learned counsel for the petitioner, learned Government Pleader and the learned counsel for the impleaded respondents.

2. The petitioner states that he is a member of registered Weavers Society in Garlepeta village which is having 125 members. The Society is arrayed as 5th respondent. Since the term of the Managing Committee came to an end, 3rd respondent issued proceedings dated 8.9.2017 for conducting elections and appointed election officer to conduct elections on 11.8.2017. The voters list was published by inviting objections on 26.8.2017. After considering the objections, the voters list was finalized and it was handed over to the 4th respondent. The 3rd respondent issued the election notification on 8.9.2017. The Society shall have 9 Directors including 2 women Directors. The nominations have to be filed on 19.9.2017 . The petitioner filed nomination along with others. On 20.9.2017, the nominations filed by the candidates were scrutinized and a list of valid nominations was published on 21.9.2017. The date of

polling was scheduled as 27.9.2017. While the matter stood thus, the 3rd respondent issued the impugned proceedings dated 25.9.2017 by staying the elections scheduled to be held on 27.9.2017 to the Managing Committee of the 5th respondent Society. Challenging the same, the present Writ Petition was filed.

3. A counter affidavit was filed on behalf of the respondents 1 to 4 stating that certain members of the 5th respondent Society levelled allegations against the Managing Committee of the Society stating that ineligible voters list was published by the then CEO and huge misappropriation took place without conducting regular Managing Committee meetings as well as General Body meeting of the Society without following the Bye-laws of the Society. They sought for postponement of the elections. They submitted a representation to the Hon'ble Minister for Handlooms and Textiles and also the Hon'ble M.L.A. of Kondepi Constituency. Accordingly, a letter was addressed to the Commissioner for Handlooms and Textiles by the Hon'ble Minister for Transport, Backward Class Welfare and Handlooms and Textiles ordering stay of the election proceedings. In turn, the Secretary to Government directed the Commissioner, by his letter dated 25.9.2017, to postpone the elections. The Commissioner addressed a letter to the District Election

Authority/Collector and District Magistrate by referring to the said memo dated 25.9.2017, for taking immediate necessary action. Accordingly, elections were stayed by proceedings of the District Collector. It is stated that the elections were postponed in exercise of the powers vested under Rule-22 (C) (1) of A.P. Cooperative Societies Act, 1964. Thereafter, a person in-charge was appointed for a period of six months or till the conduct of elections whichever was earlier to manage the affairs of the society and he assumed charge. After receipt of report from the official person in-charge, a decision would be taken to call for the elections of the Managing Committee with due approval of the election authority.

4. Rule-22 (C) (1) of A.P. Cooperative Societies Act, 1964, reads as follows:

“22-C. (1) Notwithstanding anything contained in these rules, the Government or the Election authority may direct the postponement of elections under one or more of the following circumstances:-

- (i) Break down of law and order affecting the peaceful and lawful conduct of elections.
- (ii) Any natural calamity that prevents the conduct of elections particularly, voters from participation in the election.

(iii) Where there is reasonable apprehension that voters will not be allowed to vote frankly and freely.”

5. A reading of the impugned order shows that there was apprehension among voters that they will not be allowed to vote freely, and accordingly, a decision was taken to postpone the elections till such time the voters feel free to vote. It is a vague reason shown in the impugned order. The effect of Rule-22 (C) (1) and its application was interpreted by this Court in several decisions. The said rule can be invoked only in the case of break down of law and order, occurrence of natural calamity and the prevention of voters from exercising the right of vote freely. There is no report from the Police that a situation existed where the voters cannot act freely. Though the date of polling was scheduled as 27.9.2017, even as on the date of filing of the counter on 13.3.2018, no decision was taken to conduct the elections. It is clear that due to political considerations only, the elections were postponed.

6. In the circumstances, the order of the election authority dated 25.9.2017 is set aside and he is directed to continue the election process from the stage where it was stopped and complete the same within a period of two months from the date of receipt of a copy of this order.

7. Writ Petition is accordingly, allowed.

Pending miscellaneous petitions, if any, shall stand closed. No order as to costs.

A. RAMALINGESWARA RAO,J

Date: 30.4.2018

KPM

