

HONOURABLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION NO.40511 OF 2018

Date: 11.12.2018

Between:

Nallagopu Krishna Murthy, s/o.Suryanarayana,
Aged 39 years, Agriculturist, R/o. D.No.21-76,
Narasingapuram, Sankuchakrapuram,
West Godavari district, Andhra Pradesh.

.....Petitioner

And

The State of Andhra Pradesh, rep.by its
Principal Secretary, Agriculture Department,
A.P. Secretariat, Velagapudi, Amaravati,
Guntur district, A.P., and others.

.....Respondents



The Court made the following:

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ORDER:

Heard Sri P.Gangaiah Naidu, learned senior counsel for Sri M.Suryanarayana, counsel for petitioner, learned Government Pleader for Agriculture (AP) for respondents 1, 2 and 4, learned Government Pleader for Revenue (AP) for respondents 3 and 5, and Sri Kambhampati Ramesh Babu learned counsel for respondent no.6.

2. In exercise of powers vested under Section 6(1) read with Section 5 (1) & (2) of the Andhra Pradesh (Agricultural Produce & Livestock) Markets Act, 1966 (Act 16 of 1966), Government constituted Agricultural Market Committee, Chinthalapudi in West Godavari district comprising of 19 members including Chairman and Vice Chairman. The notification was published vide G.O.Rt.No.813 Agriculture and Cooperation (MKTG-I) Department, dated 06.11.2018. In this writ petition, petitioner challenges the above notification to the extent of appointment of Sri Koneru Venkata Subbarao (6th respondent) as Chairman of the Committee.

3. By referring to provision in Section 5 of the Act 16 of 1966, learned senior counsel Sri Gangaiah Naidu would submit that a person to be appointed as a member of the Agricultural Market Committee (AMC) should be a grower of agricultural produce – small farmer and other than small farmer, and owner of livestock and products of livestock. In other words, a person seeking to be a member of AMC must have some connection to Agriculture

and livestock. According to learned senior counsel, 6th respondent is not falling into any one of these categories.

4. According to learned senior counsel, 6th respondent filed declaration, copy of which is filed as exhibit P3 where he declared his occupation as 'Agriculture', but also declared that he has no agricultural land. The said declaration would make it clear that 6th respondent is not eligible and therefore his appointment as Chairman is illegal.

5. Having regard to the stand of 6th respondent that he is owner of livestock, learned senior counsel would submit that said claim is false, that a Veterinary Assistant Surgeon cannot certify on owning livestock and that merely he possesses few buffalos and milk, he cannot qualify to be a member of AMC.

6. He would submit that the Act is a beneficial legislation and the Marketing Committee plays pivotal role in helping the farmers to sell their produce and therefore the person to be a member of the Committee should have in depth knowledge of marketing of agricultural and livestock produce, more so when it comes to be a Chairman. By referring to powers exercisable by Chairman as codified in Rule 28 of the A.P. (Agricultural Produce & Livestock) Markets Rules, a person to be a Chairman of Agricultural Market Committee must have vast experience in Agriculture and/or livestock and mere owning few buffaloes or calves is not sufficient and if such person is appointed as Chairman it would amount to fraud on the very objective of the Act.

7. By referring to definition of 'livestock' in Section 2(v) and provision in Section 5(1)(c) of the Act, learned Government Pleader

would submit that owning livestock is sufficient to be eligible for appointment as member. By relying on original record, he would submit that copy of the declaration stated to have been given by 6th respondent filed by petitioner is not valid document. In the declaration filed by 6th respondent, he claimed to own livestock.

8. Learned counsel Sri Durga Prasad appearing for 6th respondent would submit that decision making process is not vitiated by any of the parameters of judicial review and therefore writ petition is not maintainable.

9. He would submit that petitioner was aware that 6th respondent is owning livestock as can be seen from paragraph-5 of the affidavit whereas in the prayer he is referring to not owning landed property. This is a frivolous and vexatious litigation persuade by disgruntled person knowing fully well the eligibility of 6th respondent.

10. To appreciate respective submissions, it is necessary to look into relevant provisions, i.e., Section 2(v), (xv) and Section 5 of the Act. To the extent relevant, they read as under:

“Section 2. **Definitions:**

(v) ‘**Livestock**’ means cows, buffaloes, bullocks, bulls, goats and sheep, and includes poultry, fish and such other animals as may be declared by the Government by notification to be livestock for the purposes of this Act;

xxx

(xv) ‘**products of livestock**’ means such products of livestock as may be declared by the Government by notification, to be products of livestock for the purposes of this Act;

Section 5 : Composition of Market Committee:

(1) Every Market Committee shall consist of nineteen members and shall be constituted by the Government by notification in the following manner,--

(i) twelve members to be appointed by the Government in consultation with the Director of Marketing from among the following categories of growers of agricultural produce, owners of livestock and products of livestock in the notified area, namely :-

(a) growers of agricultural produce who are small farmers;

(b) growers of agricultural produce other than small farmers;

(c) owners of livestock and products of livestock:

Provided that there shall atleast be five members from among persons belonging to Scheduled Castes, Scheduled Tribes, Backward Classes, minorities and women; Provided that there shall be atleast five members representing the category of small farmers;

.....”

11. The copy of declaration claimed by the petitioner as filed by the 6th respondent, on which heavy reliance was placed by the learned senior counsel appearing for petitioner to contend that 6th respondent is not eligible to be considered for appointment as member of the Market Committee, apparently, is not the document filed by the 6th respondent. Along with the counter-affidavit of 6th respondent, declaration signed by him and certified by the Tahsildar and Village Revenue Officer is enclosed. This declaration would show that against column-7, 6th respondent declared his occupation as livestock. He has also enclosed the certificate issued by the Veterinary Assistant Surgeon stating that

petitioner owns 10 buffaloes and 7 calves. The original declaration given by the petitioner is also produced by the learned Government Pleader. The original tallies with the document relied by the 6th respondent.

12. Bare perusal of Section 5 of the Act, it is clear that on livestock side, it only requires owner of livestock and/or owner of products of livestock as eligible to be appointed as member of the Market Committee.

13. As can be seen from Section 2(v) read with Section 5 of the Act, there is no prescription of quantum of livestock a person must own to be eligible to be appointed as a member. 6th respondent is owner of livestock. That being so, it cannot be said that 6th respondent is disqualified for being appointed as Chairman of AMC.

14. Thus, there is no illegality in the decision of the Government in appointing 6th respondent as Chairman of AMC. Writ petition is accordingly dismissed. Pending miscellaneous petitions if any shall stand closed.

JUSTICE P.NAVEEN RAO

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