

HON'BLE Dr. JUSTICE B.SIVA SANKARA RAO

Writ Petition Nos.36738 of 2015,
380,8768,10488 and 12914 of 2016,
18916,20396 and 42113 of 2017 and 3064 of 2018

COMMON ORDER:-

Among the nine writ petitions supra, five of them filed for different reliefs by one SK Saida, one by eleven presidents of the District Fisherman Co-operative Societies of eleven districts in the State of Andhra Pradesh, one by two presidents of the District Fisherman Co-operative Societies of two districts in the State of Andhra Pradesh, one by name Balasadi Ranga Rao, president of the Andhra Pradesh Fisheries Co-operative Society, Kakinada and one by Moka Nagababu, president of the Prabhu marine Fisheries Co-operative Society, Machilipatnam, Andhra Pradesh.

2. The Writ Petition No.36738 of 2015 is filed by SK Saida against 5 respondents viz; 1) the State of Andhra Pradesh rep. by its Principle Secretary, Co-operative Department, 2) the Commissioner, Fisheries Department, Hyderabad, 3) The Assistant Director of Fisheries, Ongole, Prakasam District(for short, the AD of Fisheries), 4) the Managing Director, District Fisherman Co-operative Society, Ongole, Prakasam District(for short, the MD of DFCS) and 5) the Development Officer, Fisheries, (for short, 'the DO of Fisheries') Darsi, Prakasam District with the prayer as follows:-

'to issue a Writ or order or direction in the nature of Writ of Mandamus declaring the action of the 4th Respondent issued a proceedings vide Rc.No.55, Ongole, Dated 27-10-2015 following the direction of 3rd Respondent dated 26-10-2015 conduct a fresh election for the post of District President District Fishermen Co-operative Society Limited though 5 years term is not yet completed is illegal arbitrary and consequently direct the respondents not to conduct the election for the post of District President to the District Fishermen Cooperative Society Limited till the completion of the term and to pass such other order or orders'

2-a. The averments in the supporting affidavit of the petitioner are that at present he is the District President of the Fishermen Co-operative Society (for short, 'the FCS'), Ongole, as he was elected on 28.02.2014 to the FCS supra and prior to that he was elected as President of Kuruchedu FCS on 21.01.2012 which is a precedent to contest for the post of District President and completed 20 months commencing from 28.02.2014 out of 5 years of tenure of the post of President and to be continued nearly 40 months as he was duly elected by the Procedure as contemplated under the provisions of the A.P.Co-operative Societies Act, 1964 (for short, 'the Act') and there is no blemish record against him from the Members of the Societies or from the respondents. It is further stated that the tenure of the President post of Kurichedu FCS is 5 years to be completed on 20.09.2015 but the elections were conducted on 10.09.2015 before completion of his Presidentship in which he was again elected and at the same time, the Vice-President and other Members were also elected and the copy of resolution, dt.10.09.2015 was communicated to the respondents 2 to 5 for confirmation. While so, the 4th respondent-the MD of DFCS, issued a notice supra stating that the General Body meeting of the Members is to be held 3.00P.M. in the office of the 3rd respondent-the AD of Fisheries, on 04.11.2015 with regard to Election of New President to the DFCS and other issues. It is further averred that on issuance of notice, he approached the R.2 to R.5 and stated that his Presidentship to the DFCS is not yet completed and to drop the issuance of notice for conducting elections but they ignored his request and assembled on 04.11.2015 and decided to conduct election which action of the R.2 to R.5 making attempts to conduct fresh election to the DFCS behind his back before completion of his tenure is illegal and in this regard, he also mentioned

Sec.31(II)(a) of the Act, which contemplates the term of the office of the Committee or any office Members or of the President elected in accordance with the provision of Sub Section 5 shall be 5 years from the date of Election of the Members of the Committee. Hence, he impugned the action of the 4th respondent-the MD of DFCS, in issuing proceedings vide RC.No.55, Ongole, Dt.27.10.2015 following the direction of 3rd respondent-the AD of Fisheries, dt.26.10.2015 to conduct fresh election for the post of District President, before his term of 5 years is not yet completed and seeking for direction to the respondents supra not to conduct election for the post of District President till completion of his term of 5 years.

3. The Writ Petition No.380 of 2016 is also filed by said Saida (petitioner in W.P.No.36738) against 5 respondents out of whom the R.1 to R.4 are self-same as in W.P.No.36738 supra except R.5-the Person-In-Charge(for short, 'the PIC')-cum-Development Officer, Fisheries, Darsi, Prakasam District (for short, 'the DO of Fisheries') with the prayer as follows:-

'to issue a Writ or order or direction in the nature of Writ of Mandamus declaring the action of the 5th Respondent issued a proceedings vide notice Darsi Dated 28-12-2015 following the direction of 2nd Respondent vide Rc.No.5341/11/2015 dated 25-11-2015 and also followed by 3rd respondent, Ongole endorsement No 230 /E/2015 conduct a fresh election for the Kurichedu Fishermen Co-operative Society Limited though 5 years term is not yet completed is illegal, arbitrary and consequently direct the respondents not to conduct the election for the Kurichedu Fishermen Co-operative Society Limited V 57 till the completion of the term and to pass such other order or orders'

3-a. The averments in supporting affidavit of the petitioner in addition to the averments made in the affidavit in W.P.No.36738 of 2015 are that prior to his election as District President he was elected as President of Kuruchedu FCS on 21.01.2012 as the existing President was resigned and his Presidentship ended on 20.09.2015. Before

completion of term of President of Kuruchedu FCS, again conducted a Body Meeting on 01.08.2015 to decide to conduct fresh election to it on 10.09.2015 and at the same time, another resolution passed to elect Election Officer Sri K.Anji Reddy, Advocate to conduct elections supra and accordingly conducted elections on 10.09.2015 when nominations were submitted and the petitioner was elected as President of the said Society. It is further averred that one Sngamsetty Venkateswarlu was elected as Vice President and other Members were also elected and a resolution was also passed to that effect and also a copy was sent to R.3 to R.5. Later he was elected as District President to the DFCS on 28.02.2014 and thus he was continuing for the above two posts. While so, the R.3-the AD of Fisheries issued a notice supra stating to conduct fresh election to the post of District president though the petitioner was continuing as District President and his term is still to continue upto 28.02.2019 and in this regard he obtained interim order not to conduct election in W.P.No.36738 of 2015 supra till completion of his term. It is further averred that while so, without completion of his term, Body of the Kuruchedu FCS the 5th respondent issued notice, dt.28.12.2015 stating that the term of the Body completed on 20.09.2015 and as per proceedings of the R.2 and also the endorsement of R.3 supra, the R.5 was appointed as PIC to the Kuruchedu FCS and the action of the R.5, having received resolution dt.10.09.2015, issuing proceedings on 28.12.2015 stating as he was appointed as PIC is illegal and arbitrary.

4. The Writ Petition No.12914 of 2016 is filed by said Saida (petitioner in W.P.Nos.36738 & 380 supra) against 5 respondents viz; 1) the State of Andhra Pradesh rep. by its Principle Secretary, Co-operative Department, 2) the Election Authority and Commissioner of Fisheries/ Ex-

Officio Registrar of Co-operative Societies, AP, Hyderabad, 4) The AD of Fisheries, Ongole, Prakasam District and 5) the MD, DFCS, Ongole, Prakasam District with the prayer as follows:-

‘to issue a Writ or order or Direction in the nature of Writ of Mandamus declaring the action of the 2nd Respondent not responding on representation dated 4-4-2016 to issue confirmation letter enable the petitioner to exercise his franchise to vote on 23-4-2016 with reference to the proceedings Rc.No 5023/ II/ 2014, Dated 21-3-2016 conducting of elections to A.P. State Fishermen Co-operative Societies Federation Limited(for short, ‘the APSFCSFL’) Hyderabad is illegal arbitrary and consequently direct the respondents permit the petitioner to participate in an Election to be conducted on 23-4-2016 and to cast his vote to the above said Federation and to pass such other order or orders”

4-a. The averments in the supporting affidavit of the petitioner are that he is the District President of the FCS, Ongole. The 2nd respondent-the Commissioner of Fisheries when issued proceedings, dt.21.03.2016 supra to conduct elections on 23.04.2016 for the APSFCSFL, along with schedule, he submitted a detailed representation, dt.04.04.2016 requesting to issue confirmation letter enabling him to participate in election and cast vote being District President, Ongole. The 2nd respondent though acknowledged the representation, not responded. It is further averred that as per Rule 17 of the APSFCSFL, the District President is a Member and eligible to cast vote to the State Level General Body. It is further averred that he was not allowed to the meeting on 12.02.2016 at State level conducted by the 2nd and 4th respondents and against which he filed a Contempt vide C.C.No.477/ 2016 which is pending. The rest of the facts mentioned herein are similar to that of mentioned by the petitioner in W.P.No.36738 of 2015.

5. The Writ Petition No.8768 of 2016 is filed by Moka Nagababu, President of Prabhu Marine Fisheries Cooperative Society, (for short, ‘PMFCS’) against 4 respondents viz; 1) the State of Andhra Pradesh rep.

by its Principle Secretary, Co-operation 2) the Krishna District Fishermen Co-operative Society Ltd.,(the DFCS) 3) The Election Officer/ AD of Fisheries, Vijayawada and 4) the District Collector, Krishna District at Machilipatnam, with the prayer as follows:-

‘to issue a Writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the 3rd Respondent in proceeding to conduct elections to the 2nd respondent-Society on 18.3.2016 without publishing the final voters list and permitting the Person-In-charge of about 15 Societies to vote in the election, as illegal, arbitrary and contrary to the provisions of A P Cooperative Societies Act 1964 and the A P Cooperative Society Rules 1964 and to pass such other order or orders”

5-a. The averments in the supporting affidavit of the petitioner are that the 2nd respondent Society is the Apex Society at the District Level consisting of various PFCSs as its Members who are entitled to vote in the election conducted for constitution of Managing Committee of the 2nd respondent-Society and there are also 139 Primary Agriculture Societies and the elected Presidents of the respective Societies shall consist of the voters list. It is further submitted that the 4th respondent- the District Collector, issued an Election Notification dt.02.02.2016 along with voters list and appointed the 3rd respondent as the Election Officer and as per the notification, the election to be conducted on 18.03.2016 and a perusal of the voters list, it shows that though there are PICs for about 15 Societies and where there is no President at all, the Presidents are shown to be the voters and when enquired, the R.3-EO stated that he would be permitting the PICs to vote on behalf of the President. The voters list is only a preliminary list. Unless a final voters list is prepared, the 3rd respondent cannot proceed to conduct the election. The Rule 22(2) contemplates appointment of the EO and the EO was appointed on 02.02.2016. Rule 22(2)(b)(iii) shows that the President of the Society or the Chief Executive Officer shall invite the objections from the Members within seven days after communication

issued by the EO. It is further submitted that for about 15 Societies, no election was conducted and there is no President and no such procedure calling objections was followed and they are acting upon the preliminary voter list as a final list and the 3rd respondent is proceeding to conduct elections. Sub-Rule 2(iv) specifically contemplates that the EO shall verify the cases and satisfy himself as to whether the list confirms to the criteria for eligibility to vote. Here, the PICs are managing more than 15 Societies who cannot vote. Hence, the action of the R.3 in proceeding to conduct elections of the 2nd respondent-Society on 18.03.2016 without firstly conducting elections for about following 15 Societies of Polatithippa, Medimpeta, Jaggaiahpetta, Padamata, Kotha Thummalapalem, Palli Thallapalem, Vullingipalem, Bantumilli Brackish Water Society, Bantumilli, Sorlagondhi, Gudlavalleru, Palli Thallapalem, Rudravaram, Women Fisheries Co-operative Society of Saradanagar, Pallithummalapalem and Bantumilli, and confirming to the preliminary list without preparing final list and providing voting rights to PICs for the said Primary Societies is illegal, arbitrary and contrary to the Rules.

6. The Writ Petition No.10488 of 2016 is filed by Balasadi Ranga Rao, President of A.P. Fisheries Co-operative Society, (for short, 'the Petitioner Society') against 4 respondents viz; 1) the State of Andhra Pradesh rep. by its Principle Secretary, Fisheries Department 2) the Commissioner, A.P. Fisheries Department, 3) The Chairman(in-charge), the APSFCSFL, Hyderabad, 4) the MD, the APSFCSFL and 5) the DFCS, rep. by its President A.Challa Rao, East Godavari District (R5 is impleaded as per Court Order, dt.6/04/2016 in WPMP No 13595/2016) with the prayer as follows:-

'to issue an appropriate writ more in the nature of Writ of Mandamus declaring the notification of 2nd Respondent in his RC No 5023/II/2014 Dated 21-03-2016 seeking to conduct the elections to AP

State Fishermen Co-operative Societies Federation Ltd vide his Proceedings in RC.No.5023/II/2014 Dated 21-03-2016 as being arbitrary and illegal contrary to the provisions of the AP cooperative societies Act and the rules framed thereunder and also contrary to the resolution passed by this state-level body and consequently direct the Commissioner to conduct the elections after the results of Vishakhapatnam District Co-Operative Fishermen Society are announced and the stay on the declaration of the results of Krishna district is lifted by this Honourable High Court; and issue such other writ or order or direction is deemed fit and proper in the circumstances of the case."

6-a. The averments in the supporting affidavit of the petitioner-Society are that the elections to the APSFCSFL are being conducted as per the bye-laws of the Society r/w Section 22 of the Act which speaks that notwithstanding anything in the bye-laws, the elections can go ahead. Thus the provisions under Section 22 of the Act cannot be brushed aside and the resolutions cannot be sidelined. It is further submitted that after State bifurcation, the APSFCSFL is left with 13 districts and the bye-law No.17(a) of the State Level Body postulates that all the districts must be represented. The Executive Committee shall be elected from among the Members of the Executive Committee of the Districts numbering 13 and from among these Members, one will be elected as President and one as Vice President and the remaining 11 shall function as Executive Committee Members. After bifurcation, a notification was given by the R.2-the Commissioner for conduct of elections for all the District Level Bodies during March,2016 and elections were completed and a resolution was passed on 12.02.2016 for conducting the elections to the State Level Body in the last week of March, 2016 and the concurrence of the Commissioner was obtained. By that time, elections were not conducted to the Visakhapatnam district and the declaration of result of Krishna district was stayed by the High Court in W.P.M.P.No.11505 of 2016 in W.P.No.8768 of 2016, dated 17.03.2016. It is further averred that since the elections could not be conducted on the tentative date i.e. 27.03.2016, the elections to the

State Level Body can only be conducted after vacating the stay only with regard to Krishna District and elections to Visakhapatnam district. The resolution is passed only to see that all the 13 districts to represent in the State Level Body and in the above context, the Commissioner cannot invoke the provisions of Section 22 and seek to conduct the elections by appointing an EO through his notification, dt.21.03.2016 which given in haste contrary to the democratic norms and in contravention to the resolution of State Level Body, dt.12.02.2016. Further the mandatory requirements are brushed aside and it would not subserve for the cause of the society if the elections to the State Level Body without representations from Visakhapatnam and Krishna District, are conducted. The R.2-Commissioner not responded even to the letter addressed by the petitioner on 21.03.2016 to honour resolution dt.26.02.2016 requesting to wait till vacating the stay granted by the High Court. Hence, the writ petition.

7. The Writ Petition No.20396 of 2017 is filed by two petitioners viz; the DFCS, Guntur District rep. by its President N.Svaiah and the DFCS, Vijayanagaram District, rep. by its President B.Chinnapanna against four respondents viz; 1) the State of Andhra Pradesh rep. by its Spl.Chief Secretary to Animal Husbandry, DD&F(Fish)Dept., 2) the Commissioner of Fisheries, AP, 3) PIC of Konduru Palusetty (Chairman), President of the DFCS, Nellore and 4) the DFCS, West Godavari District rep. by its President A.Challa Rao(Vice-Chairman), with the prayer as follows:-

‘to issue a Writ or order or Direction in the nature of Writ of Mandamus declaring the action of the 2nd Respondent issued proceedings vide G.O. Rt. No 172 Dated 19-6-2017 Animal Husbandry Dairy Development Fisheries (Fish) Department appointing Personal In-Charges is illegal arbitrary and to pass such other order or orders’

7-a. The averments in the supporting affidavit of the 1st petitioner including on behalf of the 2nd petitioner who are two DFCSs out of 13 societies are that the General Body of the APSFCSFL is expired due to bifurcation of the State of AP and thereafter got it registered as the APSFCSFL, Vijayawada and after its constitution, no elections have been conducted to the General Body and on the oral requests of the District Presidents, the 2nd respondent-Commissioner of Fisheries, issued proceedings vide Letter No.171/ AF/ 2015, dt.26.03.2016 to conduct elections on 21.03.2016 to the State General Body and the schedule is incorporated in the letter but due to some reasons, the election was postponed and later after discussions, the GM of State Body issued a notice No.20/ AF/ 16, dt.30.09.2016 to conduct General Body Meeting on 04.10.2016 and all District Presidents participated in it in the presence of the 2nd respondent and again on 31.03.2017 the meeting was conducted and resolution was passed to conduct elections to the APSFCSFL. It is further averred that the 2nd respondent in spite of the requests of all the District Presidents and their resolutions, not conducting elections and continuing as Chairman-cum-PIC of State Body vide G.O.Rt.No. 271, dt.02.12.2015. It is further averred that at bye-law No.17, it is categorically mentioned as 5 years period to the Members of the State General Body, but the R.2 is not conducting elections and then 11 District Presidents out of 13, filed W.P.No.18916 of 2017 on 07.06.2017 to conduct election to State Body and during its pendency, knowing fully the Respondents 1 and 2 issued impugned proceedings appointing R.3 as Chairman and R.4 as Vice Chairman to the APSFCSFL which action of the R.1 and R.2 is illegal and arbitrary and the same is to be set aside.

8. The Writ Petition No.18916 of 2017 is filed by 11 petitioners- viz; respective Presidents representing the DFCSs of Prakasam, East & West Godavari, Kurnool, Anantapur, Krishna, Srikakulam, Guntur, Visakhapatnam, Vijayanagaram and Kadapa districts, against 5 respondents viz; 1) the State of AP rep. by its Principal Secretary to Animal Husbandry, DD&F(Fish)Dept. 2) the EO/ Ex-Officio Registrar of Co-operative Societies, AP, 3) The MD of the APSFCSFL 4) the GM of the APSFCSFL and 5) the APSFCSFL , with the prayer as follows:-

‘to issue a Writ or order or Direction in the nature of Writ of Mandamus declaring the action of the Respondents 2 to 4 not considering the General Body Resolution Dated 31-3-2017 and another General Body Resolution Dated 4-10-2016 regarding conducting of election to the 5th Respondent Federation Limited is illegal arbitrary and consequently direct the respondents 2 to 4 to conduct elections to the State General Body of the 5th Respondent Federation Limited and to pass such other order or orders”

8-a. The averments in the supporting affidavit of the 1st petitioner including on behalf of the other petitioners are similar to that of mentioned in W.P.No.20396 of 2017.

9. The Writ Petition No.42113 of 2017 is filed by said Said petitioner as in 36738 supra against 3 respondents viz; 1) the State of AP rep. by its Principle Secretary, Animal Husbandry, DD&F (Fish)Dept., 2) the EO/ Ex-Officio Registrar of Co-operative Societies, AP, Hyderabad and 3) the APSFCSFL with the prayer as follows:-

‘to issue any Writ Order or Direction more particularly one in the nature of Writ of Mandamus declaring the Memo No 3168/Fish/A2/2015 dt.13.04.2016 issued by the 1st respondent and the consequential appointments of persons-in-charge as illegal arbitrary contrary to the provisions of law unsustainable and further direct the conduct of elections to the managing committee of the 3rd respondent in accordance with law and to pass such other orders”

9-a. The averments in the supporting affidavit of the petitioner, in addition to the facts covered supra with regard to elections to the APSFCSFL are that election schedule to the APSFCSFL was issued by the

2nd respondent vide Notification dt.21.03.2016 with appointment of EO on that day itself upto election of Managing Committee Members on 23.04.2016 and accordingly EO was appointed for conduct of elections to the APSFCSFL and subsequently the MD of APSFCSFL, issued voters list of Members calling for objections if any. While so, the R.1 issued a memo No.3168/ Fish/ A2/ 2015,dt. 13.04.2016 postponing the elections to be held to the Managing Committee of R.3- APSFCSFL till the settlement of legal issues. It is further averred that R.1 instead of conducting elections, kept on extending the term of PIC committee, despite the resolutions passed by the DFCSs requesting to conduct elections, which action of the R.1 is contrary to Rule 22-C of the Act, having no power to postpone election. It is further averred that the efforts of R.1 to appoint/ continue the PIC Committee to the APSFCSFL though the term was expired by 21.12.2017. Hence, the actions of the R.1 to postpone elections and consequential appointment and continuation of PIC is *per se* contrary to law and unsustainable. Hence, the Writ Petition seeking to direct the respondents to conduct elections to the Managing Committee of the APSFCSFL.

10. The Writ Petition No.3064 of 2018 is filed by said Saida (petitioner in 36738) supra against 6 respondents viz; 1&2) the State of AP rep. by its Principle Secretaries of Revenue Department and Animal Husbandry-DD&F Dept., 3) the Special Chief Secretary to the Government, Animal Husbandry-DD&F Dept. 4) The Commissioner of Fisheries, Poranki, 5) Joint Director (for short, 'the JD') of Fisheries, Ongole and 6) The AD of Fisheries, Chirala with the prayer as follows:-

'to issue a writ order or direction more particularly one in the Nature of Writ of Mandamus declaring the impugned G.O. Ms. No. 98 Dt. 22.01.1964, issued by Government of Andhra Pradesh, Revenue Department and followed by the 4th 5th and 6th Respondents, as Illegal, improper, arbitrary, unjust, contrary to Law especially Section

19 of the Co-operative Societies Act, Article 19 (1) (g) & 14 of the Constitution of India and also Contrary to the Guidelines in existence for admission of members into Fishermen Co-operative Societies through Bye-Law 4 (a) and Clause G of G.O.Ms.No.74, Dt.21.10.2011 and consequently declare that the said G.O.is not applicable to the petitioner to continue as Member in the Kuruchedu Fishermen Co-operative Society and to pass such other order or orders"

10-a. The averments in supporting affidavit of the petitioner are that he became the Member of PFCS, Kurichedu in the year 1998 and at present he is President Kurichedu FCS. He further submits that he belongs to Muslim community and his sub caste 'shaik is placed in BC-E category. Prior to his became a Member of the Kurichedu FCS, there is viability in the Society and he underwent the skill test conducted by the three men Committee and qualified in it. During that relevant period, the bye-law 4(a)&(b),dt.16.11.1992, issued by the 4th respondent-Commissioner of Fisheries, which is a model bye-law compulsorily incorporated by every the PFCS in the State is in force and as per that bye-law any person having fishing skills and his main occupation of livelihood is fishing and who is competent to contract and is residing in the area of operation of the Society shall be eligible for admission as a Member of the FCS and the bye-law further says the FCS is meant exclusively for economically weaker sections whose main occupation is fishing and he belongs to the same section. He further averred that the intention of the Government in issuing G.O.Ms.No.74,dt.21.11.2011 is to prescribe guidelines for conducting skill test for identification of Members for organization of new inland FCSs. Clause-G of the G.O. is regarding the Selection of applicants and this Clause says at the first instance, applicants listed in G.O.Ms.No.98,dt.22.01.1964 shall be provisionally selected. Still if there is viability in the Society, the categories mentioned in Clause-G(i)(ii) can be selected. It is further submitted that there is no absolute bar as to the communities not mentioned in G.O.Ms.No.98 shall not be selected. It is further averred

that the said GO is inconsistent with bye-law-4(a) and also Section 19 of the Act. He further avers that while in existence of bye-law No.4(a),dt.16.11.1992, the Government without even giving any date, issued another bye-law recently and contemplating that the bye-law 4(a) issued recently is to be followed without even canceling the earlier bye-law which action of the authorities trying to eliminate the genuine members of the FCSs and including bogus members ignoring the rules and regulations without mentioning communities of the members in G.O.Ms.No.98, is unjust and illegal. It is further submitted that the Commissioner of Fisheries vide his Circular Memo.No. 3739/ 12/ 2012, dt.09.05.2012 also clarified that ‘the majority of the fishermen Co-operative Societies already in existence have been formed many years ago. Most members have become very old today whereas G.O.Ms.No. 74 came in 2011 as the Government Intention is to apply it prospectively and not retrospectively’. It is further averred that the G.O.supra is contrary to Section 19 of the Act and executive orders issued under Article 162 of the Constitution of India cannot have overriding effect over the statutory provisions. It is further submitted that earlier this Court quashed both the G.Os.70 and 71, dt.23.07.1998 which are inconsistent with Section 56(1) of the Panchayat Raj Act, in W.P.No.16970 of 1999. The District Fisheries Officer in reply to the letter of the Commissioner of Fisheries, A.P.dt.08.01.2018, furnished the details of the petitioner regarding community and validity of membership in Kurichedu FCS, stated that the petitioner belongs to the Muslim community and his caste is ‘Shaik’ and belongs to BC-E category and this attempt of the Commissioner of Fisheries is very clear that they are probing into this aspect with an ulterior motive. Hence, the Writ Petition seeking to declare the G.O.Ms.No.98, dt.22.01.1964 issued by

the Govt. of AP, Revenue Dept.-R.1 as illegal, improper, arbitrary and contrary to law and especially Section 19 of the Act and Article 19(1)(g) and 14 of the Constitution of India and also contrary to guidelines in existence for admission of Members into Fishermen Co-operative Societies through bye-law 4(a) and Clause-G of G.O.Ms.No.74, dt.21.10.2011.

11. On the other hand, the R.3-the AD of Fisheries filed counter affidavit on behalf of the R.2 to R.5 denying the averments in the supporting affidavit of the W.P.No.36738 of 2015 with the contentions that the petitioner who is initially Member of the Kurichedu Co-operative Society in the year 2011 vide general body resolution of FCS, Kurichedu, dt.20.11.2011 after qualifying skill test and subsequently, became Director and President of the FCS, Kurichedu on 21.01.2012 by mere resolution of Managing Committee of the Society without prior permission of the District Election Authority-cum-District Collector, Prakasam by replacing Bapatla Kondaiah, hitherto who acted as elected President who resigned for his post due to ill-health and said appointment is against to the Act and Rules, 1964 and there is no validity for the resolution and appointment as President is invalid. It is further contended that subsequent election of the petitioner as President of DFCS, in the capacity of President of FCS, Kurichedu is irregular and improper in its manner and method. In fact, the term of the President of Kurichedu FCS, was expired on 20.09.2015 and as such the petitioner was no more President of DFCS w.e.f.20.09.2015. It is further contended that as a stop gap arrangement, the Managing Committee of the DFCS conducted meeting on 04.11.2015 and elected the Vice President of DFCS as its President pending conduct of regular elections. Subsequently, the

petitioner, President FCS, Kurichedu has conducted elections to the Managing Committee of the society on 10.09.2015 by himself by appointing an advocate in the assumption that, his society is an unaided society and thus the action of the petitioner was irregular and against to the Act and Rules, 1964 and there is no validity in the eye of law for the alleged elections conducted by the petitioner Society. It is further contended that while the matter stood thus, the petitioner himself appointed K.Anji Reddy as an Election Officer by Society resolution and conducted elections to his Society highhandedly without approval of District Election Authority-cum-District Collector on the plea that the Kurichedu PCS is an unaided Society, even though, the previous elections were conducted as per the orders of the District Election Officer. Further it is submitted that the Commissioner of Fisheries, appointed PIC for the FCS, Kurichedu as the term of elected Managing Committee was expired by 20.09.2015 which was questioned by the petitioner vide W.P.No.380 of 2016 and obtained interim orders. It is further submitted that the Kurichedu FCS is an aided Society because it is getting leasehold rights of Kurichedu minor irrigation tank every year from the Fisheries Department for subsidized rates and getting subsidies from the Department now and then for purchase of fish seed etc., and the petitioner-Society is in receipt of state aid as specified under Section 43 of the Act and the Registrar shall hold elections to such class of societies as per Rule 22(b) of the Act. As per Section 43 of the Act, the petitioner Society is an aided one and said Section reads as follows:-

43. State aid to Societies:-the Government may, subject to the Rules:-

- (a) give loans or advance moneys to a society ;
- (b) subscribe to the share capital of a society ;
- (c) provide moneys to a society
 - (i) for the purchase of shares of other societies ; or
 - (ii) to enable it to provide moneys to another society to purchase shares in other societies ;

- (d) guarantee the repayment of principal and payment of interest on debentures issued by a society ;
- (e) guarantee the repayment of share capital of a society and dividends thereon at such rates as may be specified by the Government ;
- (f) guarantee the repayment of principal and payment of interest on loans and advance of moneys to a society ;
- (g) guarantee the repayment of deposits received by a society and payment of interest on such deposits subject to such terms and conditions as may be laid down by the Government ; and
- (h) give financial aid in any other form including subsidies to any society.

11(a). Further it is submitted that though the petitioner belongs to Muslim community and his sub-caste 'Shaik' belongs to BC-E category but the Muslim caste has not been included in the list of 30 castes shown in G.O.Ms.No.98,Rev.Dept.,dt.22.01.1964 and G.O.Ms.No.74, dt.21.10.2011 and 35, dt.29.04.2003 of A.H.D.D. & Fisheries (Fish.II) Dept. Further, in fact, the R.4-the MD of DFCS issued notice to conduct Managing Committee meeting of the Society consequent on the vacancy arisen to the Post of the President, DFCS Ongole but the allegation of the petitioner that R.4 issued proceedings to conduct election mere following the directions of R.3-the AD of Fisheries is not correct. It is further submitted that the petitioner was elected as President, DFCS, Prakasam District in the capacity of President, PFCS, Kurichedu only but not with eligibility. The tenure of the petitioner will be in force as long as he is continued as President of Kurichedu PFCS or upto 27.02.2019 whichever is earlier but his contention of he has still a tenure of 40 months to continue as President of DFCS, Prakasam District is not at all correct. It is further submitted that as the elections to the Managing Committee of PFCS, Kurichedu along with some other Societies in the district, the term of which were expired by 20.09.2015, could not be conducted due to administrative reasons and necessary proposals have been submitted to the Commissioner of Fisheries/ Ex-officio Registrar of Co-operative Societies for appointment of PICs to manage the affairs of said Societies in the

meantime. It is further submitted that the contention of the petitioner
that after completion of his tenure as President of PFCS, Kurichedu,
elections have been conducted on 10.09.2015 during subsistence of his
Presidency is mere a fabricated one and the incumbent Managing
Committee cannot conduct election to the aided PFCSs at their own
accord but in fact, the Collector-cum-District Election Authority, Ongole
alone is competent to conduct elections to the PFCSs duly appointing
Election Officers u/ sec.31(2)(b) r/w Rule 22(b) of the Act. It is further
 submitted that as per the term of petitioner society was expired by
20.09.2015, the post of President, DFCS, Prakasam district became
vacant by that date and for that to make necessary arrangements, the
Managing Committee meeting of DFCS, Prakasam District was called for
on 04.11.2015 as per notice, dt.27.10.2015 of R.4 and in the said
meeting, the Vice President of the DFCS, was kept temporarily to act as
President as per bye-law No.44, hence the contention of the petitioner
that he approached the respondents 2 to 5 and requested to drop the
issuance of notice with regard to conduct of elections for the post of
new President and Members is not correct as he did not approach the
respondents 2 to 5 as alleged therein. Moreover, no elections for new
 President and other Members of District Fishermen Co-operative Society,
 Prakasam District were not conducted as alleged by the petitioner.
 Hence, the averments made by the petitioner herein are all false and far
 away from truth. It is further submitted that Section 32(2)(a) of APCS
Act, 1964 is not applicable to this case as the term of the petitioner in
the capacity of the PFCS, Kurichedu was expired by 20.09.2015 and he is
seized to be in office from 20.09.2015 onwards. It is further submitted
 that though the petitioner having alternative remedies such as
 approaching the ex-officio Dy.Registrar/ Registrar of Co-op.Societies or

Co-operative Tribunal, invoked the extra ordinary original jurisdiction of the High Court under Article 226 of the Constitution of India. Hence, to dismiss the writ petition.

12. The contentions of the counter affidavit of the 2nd respondent-Commissioner of Fisheries, in W.P.No.20396 of 2017 are that Govt. of A.P. issued G.O.Rt.No.172, Animal Husbandry, Dairy Development & Fisheries (Fish) Dept.dt.19.06.2017 appointing PIC to Committee as per Section 32(7) (a) of the Act. It is submitted that the APSFCSFL is registered with the area of operation of 13 Districts vide Registration No.1/2015 dt.22.06.2015 with the Head Office at Matsyabhavan, Shantinagar, Masab Tank, Hyderabad by the 2nd respondent. It is further submitted that in the first General Body Meeting held on 12.02.2016, it was resolved to conduct elections to the APSFCSFL after completion of the elections to the DFCS, Visakhapatnam and Krishna by the end of March,2016 and accordingly the elections schedule of 21.03.2016 to the APSFCSFL was issued but some of the Societies have approached the High Court in W.P.No.8768 of 2016 on declaring the action of the EO in proceeding to conduct of Elections to the DFCS supra and obtained interim order,dt.17.03.2016 that 'Elections to the 2nd respondent-Society may go on, however results of the same shall not be announced for a period of 4 weeks'. Said interim direction is still in subsistence and a contempt vide C.C.477 of 2016 was filed by SK. Saida for not implementing the orders of the High Court in W.P.No.36738 of 2015, dt.20.11.2015. However, he is the acting President of DFCS, Prakasam District as per the orders of High Court another representation submitted by Balasadi Ranga Rao, President of DFCS, East Godavari requested to conduct the elections to the APSFCSFL after results of Visakhapatnam District FCS are announced and after vacation of the stay

covered on the declaration of results of Krishna District which is showing as pending in online. Now elections were held for DFCS, Visakhapatnam and Krishna and Presidents are in position. Hence, the Government vide Memo No.3168Fish/A2/2015, dt.13.04.2016 decided to postpone the proposed elections till the legal issues are sorted out but after postponement, the issue was discussed in the 3rd General Body Meeting Dt.31.03.2017 and resolved to request the Govt. for conducting elections to the APSFCSFL. It is further submitted that in the 2nd General body meeting of the APSFCSFL held on 04.10.2016 not passed any resolution about conducting the elections to the APSFCSFL as court cases are pending at that time and accordingly a letter was addressed to the Government to take decision on conducting elections and on that Government issued G.O.Rt.No.271,dt.02.12.2015 appointing the Commissioner of Fisheries, AP, Hyderabad as Person-In-Charge u/ sec.32(7)(a) of the Act, to manage the affairs of the APSFCSFL till the elections are conducted to the Managing Committee of the Federation. It is further submitted that as per bye-law, the term of the elected Managing Committee is 5 years. The 2nd respondent requested the Government vide Lr.No.5023/ 2014/ 11/ dt.16.06.2017, to appoint one or two persons among the 13 DFCS Presidents as PIC to the APSFCSFL u/ sec.32(7)(a) of the Act for a period of 6 months or till the elections are conducted whichever is earlier, as the 2nd respondent is over-burdened with increase in the workload as several schemes of GOI and State Government are being implemented compared to the year 2015 and also attending review meetings conducted by the State at State Level and Country Level. He further submits that there is no intentional delay in conducting elections to the APSFCSFL except sorting out the

legal issues for smooth conduct of the election. Hence, to dismiss the writ Petition.

12(a). The 2nd respondent-Commissioner of Fisheries also filed rejoinder affidavit to the reply of the petitioner that with regard to the conduct of elections to the APSFCSFL, there is no relevancy, for the petitioner, to file contempt vide CC No.477 of 2016 as it is already submitted in the counter that in the first General Body Meeting held on 12.02.2016, it was resolved to conduct elections to the APSFCSFL after completion of the elections to the DFCS, Visakhapatnam and Krishna by the end of March,2016 and further submitted that the other writs supra are pending filed by Sk. Saida and some others in the High Court which are pertaining to Elections of various DFCSs, but the facts of the C.C.No.477 of 2016 were not mentioned in the affidavit dt.30.06.2017.

13. The averments of the Counter affidavit of R.4-the AD of Fisheries for the respondents 1 to 5 in W.P.No.12914 of 2016 are that the Election schedule was issued by the Ex-Officio/Registrar of Co-operative Societies, AP, vide proceedings RC.No.5023/ 11/ 2014, dt.21.03.2016 to conduct the election to the APSFCSFL on 23.04.2016 M.Sai Krishnudu Special Category Deputy Registrar O/ o. Commissioner of Co-operative Societies, AP, Hyderabad was appointed as EO to the Federation. It is submitted that Sk.Saida submitted representation to issue clarification letter to participate in Elections to be conducted on 23.04.2016 but it is not correct to say that Election Authority has not issued clarification letter to cast his vote in Elections to be conducted on 23.04.2016 and further submitted that as per Rule 22(2)(ii) the Chief Executive officer or president of the Society where there is no Chief Executive Officer shall prepare and publish the list of Members eligible

to vote within seven (7) days after receipt of the communication from the Election Officer. It shall indicate Village/ Locality, age, Community and Male/ Female. The Chief Executive Officer or President of the Society shall invite the claims or Objections from the members with 7 days thereafter. Prior to this the GM of the APSFCSFL has published the voters list on 04.04.2016 inviting objections upto 11.04.2016 if any objection seek by any member shall file objections before the GD of APSFCSFL, within stipulated time and as per Rule 22(2)(iii). Further the Government of A.P., vide Memo No.3168/ Fish/ A.2/ 2015, dt.13.04.2016, the Government has decided to postpone the proposed elections to be held to the Managing committee of the APSFCSFL till the legal issues are sorted out, hence the Elections to the Managing Committee of the APSFCSFL to be held on 23.04.2016 could not be conducted and in this connection, a reply was sent to Sk. Saida vide Rc.No.5515/ 11/ 2015, dt.25.04.2016. The alleged elections said to have been conducted by the incumbent Managing Committee by themselves on 10.09.2015 by appointing the Election Officer viz; Sri K.Anji Reddy, Advocate to conduct the said elections are illegal and against the provisions of the Act and Rules. As the elections for the PFCS, Kurichedu could not be conducted by the Election Authority in time due to administrative reasons, the Ex-Officio Registrar of Co-operative Societies and Commissioner of Fisheries, AP, Hyderabad pleased to issue orders appointing Person-In-Charge to manage the affairs of the said Society for a period of 6 months from 20.09.2015 to 19.03.2016 as a stop gap arrangement and pending conduct of elections to the Society by the District Election Authority, Ongole. So the contention of the petitioner claiming that he is President of PFCS, Kurichedu is not correct. It is submitted that there is no validity to the elections said

to have been conducted for the PFCS, Kurichedu on 10.09.2015 by one Sri Kasu Anjireddy, Advocate, since it is an aided Society, the incumbent Managing Committee cannot be conducted elections to the PFCS, Kurichedu by themselves. In fact, the Elections to the Managing Committee of the said FCS are to be conducted under Rule No.22(b) of Act by an Election Officer appointed by the District Election Authority, Ongole, hence there is no validity to the alleged elections said to have been conducted by the incumbent Managing Committee to the PFCS, Kurichedu by themselves in illegal manner duly adopting backdoor manner. It is submitted that it is a fact that in the capacity of President PFCS, Kurichedu the petitioner was elected to the post of President DFCS, Ongole on 28.02.2014 and he will be in the office as President, DFCS, Ongole as long as he continues as President, PFCS, Kurichedu which term expires by 20.09.2015 and the Person-In-Charge was appointed vide Commissioner of Fisheries, AP, Hyderabad/ Ex-Officio Registrar of Co-operative Societies proceedings No.5341/ 11/ 2015, dt.25.11.2015, he ceased to be in office as President, DFCS, Ongole from 20.09.2015 onwards. As such contention of the petitioner that his tenure to the post of President of DFCS, Ongole for 5 years is not correct and at present, he is no more in the office as president of PFCS, Kurichedu or DFCS, Ongole. It is submitted that the contention of the petitioner stating that he is continuing as President of DFCS, Ongole and his term is yet to be expired on 28.02.2019 is not correct. In fact, he is ceased to be in the office w.e.f.20.09.2015 from which date, the term of his Presidentship as PFCS, Kurichedu was expired. As the post of President, DFCS, Ongole was become vacant by 20.09.2015, the R.5 issued a notice for conduct of Managing Committee meeting of the DFCS, Ongole on 04.11.2015 to make alternate arrangements for smooth running of the

DFCS, Ongole pending conduct of regular elections to the Society and in the said meeting one Gollapothu Venkataswamy, Vice President of the said Society was kept In-Charge to the post of President, DFCS, Ongole pending conduct of regular elections to that post. The petitioner filed W.P.No.36738 of 2015 aggrieved with the notice and the High Court was pleased to pass interim orders dt.12.11.2015 directing the respondents not to conduct elections to the DFCS, Ongole, the High Court however, not ordered therein continuing the petitioner as president, DFCS, Ongole who is already ceased to be in office by 20.09.2015. So the contention of the petitioner stating that as per the orders of the High Court that he is being continuing as President, DFCS, Ongole, is not at all correct. It is further submitted that basing on the Writ Petition No.380 of 2016 filed by the petitioner, the High Court passed interim orders in WPMP No.477 of 2016, dt.06.01.2016 directing the respondents not to conduct elections to the PFCS, Kurichedu pending disposal of Writ Petition. The High Court however, did not pass any directions to continue the petitioner as President of PFCS, Kurichedu whose term was expired on 20.09.2015. hence, the contention of the petitioner stating that till today he is continuing as president, DFCS, Ongole as well as President, FCS, Kurichedu is not correct and far from truth. It is further submitted that as the petitioner was not continuing as President, DFCS, Ongole and President, PFCS, Kurichedu, he was not allowed by the R.2 in a meeting conducted at State Level by the R.2 in a meeting conducted at State Level by the R.2 in a meeting conducted at State Level on 12.02.2016 and aggrieved by which the petitioner filed C.C.No.477 of 2016 and a counter affidavit was already filed in that case by this respondent which is pending with the High Court but said allegations of the petitioner that the R.4 ignoring the High Court orders, committed an offence under

contempt of Court act is not correct and in that contempt case a detailed counter affidavit was already filed and pending. It is further submitted that he is having sufficient alternative remedies for the redressal of his grievance in Cooperative Tribunal which is exclusively meant to deal with the Cooperative disputes. Hence, there is no need to file this Writ Petition before the High Court without availing alternative remedies. Hence, there are no merits in the contention of the writ petitioner seeking to allow him to cast his vote in the elections since he is presently not continuing as President DFCS, Ongole. Hence to dismiss the writ petition.

14. The averments in the counter of the R.3-GM of APSFCSFL on behalf of all the respondents in W.P.No.18916 of 2017 are that no resolutions were passed in the 2nd General Body Meeting which was held on 04.10.2016 for conducting of election to the APSFCSFL, however, the issue was resolved in the 3rd General Body Meeting of APSFCSFL, dt.31.03.2017 to address the Government for conducting elections to the Managing Committee of the APSFCSFL. Now action was taken and addressed to the Government for conducting elections to the Managing Committee of the APSFCSFL. It is further submitted that in the first General Body Meeting was held on 12.02.2016, it was resolved to conduct elections to the APSFCSFL after completion of the elections to the DFCS, Visakhapatnam and Krishna by the end of March,2016 and accordingly the elections schedule of 21.03.2016 to the APSFCSFL was issued but some of the Societies have approached the High Court in W.P.No.8768 of 2016 on declaring the action of the Election Officer in proceeding to conduct of Elections to the DFCS supra and obtained interim order,dt.17.03.2016 that 'Elections to the 2nd respondent-Society may go on, however results of the same shall not be announced for a

period of 4 weeks'. Said interim direction is still in subsistence and a C.C.477 of 2016 was filed by SK.Saida for not implementing the orders of the High Court in W.P.No.36738 of 2015,dt.20.11.2015, hence the Government vide Memo No.3168/ Fish/ A2/ 2015,dt.13.04.2016 postponing the elections to be held to the Managing Committee of R.3-APSFCSFL till the settlement of legal issues but after postponement, the issue was discussed in the 3rd General Body Meeting Dt.31.03.2017 and resolved to request the Govt. for conducting elections to the APSFCSFL and minutes of it were communicated to Government. It is further submitted that in the 2nd General body of the APSFCSFL in its meeting held on 04.10.2016 not passed any resolution about conducting the elections to the APSFCSFL as court cases are pending at that time. Further the Government vide G.O.Rt.No. 271, dt.02.12.2015 appointed the Commissioner of Fisheries, AP, Hyderabad as PIC to the APSFCSFL till the elections are conducted to the Managing Committee of it. It is further submitted that as per the bye-law the term of the elected Managing Committee is 5 years. The 2nd respondent-the Commissioner of Fisheries requested the Government vide Lr.No.5023/ 2014/ 11/ dt.16.06.2017, to appoint one or two persons among the 13 DFCS Presidents as Person-In-Charge to the APSFCSFL u/ sec.32(7)(a) of the Act for a period of 6 months or till the elections are conducted whichever is earlier. The Government vide G.O.Rt.no.172, dt.19.06.2017 appointed Sri Konduru Palusetty as Chairman and Andraju Chella Rao as Vice Chairman, the Non-Official PIC Committee to manage the affairs of the APSFCSFL. for a period of 6 months w.e.f. the date of assuming charge or till the elections and accordingly, a letter vide Lr.No.66/ AF/ 2017, dt.19.06.2017 was addressed to the Government to take decision for

conducting elections to the APSFCSFL. Hence, to dismiss the writ Petition.

14(a). The averments in the rejoinder reply affidavit of the 4th respondent-GD of APSFCSFL are that in the first General Body Meeting held on 12.02.2016, it was resolved to conduct elections to the APSFCSFL after completion of the elections to the DFCS, Visakhapatnam and Krishna by the end of March, 2016 but the CC No.477 of 2016 a contempt case has no relevancy with conduct of election to the APSFCSFL. The remaining averments in this rejoinder are covered supra. Hence, to dismiss the writ petition.

15. Heard both sides commonly in all the Writ Petitions for common disposal and perused the material on record covered by the nine writ petitions.

16. Among the five writ petitions filed for different reliefs by SK Saida supra, the WP Nos.380 of 2016 and 36738 of 2015 are for Writ of Mandamus respectively questioning as illegal and to so declare the proceedings of the PIC-cum-Development Officer, Fisheries, Darsi-5th Respondent in WP No.380 of 2016 issued a proceedings vide notice Dated 28-12-2015 following the direction of 2nd Respondent vide Pc.No.5341/ 11/ 2015 dated 25-11-2015 and also followed by 3rd respondent, Ongole endorsement No 230 / E/ 2015 to conduct fresh election for the Kurichedu Fishermen Co-operative Society Limited with the claim of 5 years term is not yet completed and for consequential direction not to conduct the election for the Kurichedu Fishermen Co-operative Society Limited V 57 and vide Pc.No.55, Ongole, Dated 27-10-2015 issued by the Managing Director, District Fisherman Co-operative Society, Ongole, Prakasam District-4th Respondent in 36738 of 2015

following the direction of the Assistant Director of Fisheries, Ongole, Prakasam District (for short, the AD of Fisheries)-3rd Respondent dated 26-10-2015 to conduct a fresh election for the post of District President District Fishermen Co-operative Society Limited with the claim of 5 years term is not yet completed and for consequential direction not to conduct the election for the post of District President to the District Fishermen Cooperative Society Limited till the completion of the term and to pass such other order or orders concerned, there is nothing shown by the writ petitioner in both the matters that any of the Societies are unaided. Though it was not in dispute of said Saida was initially a Member of the Kurichedu Co-operative Society in the year 2011 vide general body resolution of FCS, Kurichedu, dt. 20.11.2011 after qualifying skill test, once it is the contention that later he became Director and President of the FCS, Kurichedu on 21.01.2012 unauthorizedly and illegally and by mere resolution of Managing Committee of the Society without any prior permission required of the District Election Authority-cum-District Collector, Prakasam that too subsequently by cause managed to resign one Bapatla Kondaiah-elected President for his post and occupy the place which is against to the Act and Rules, 1964 and there is no validity for the resolution and appointment of him as if President of the Society and same is illegal and invalid and equally so called subsequent election of him as if President of DFCS, with that ineligible capacity of President of FCS, Kurichedu. In fact, even for arguments sake from the original term of the President of Kurichedu FCS, was expired on 20.09.2015 and as such said Saida is no more President of DFCS w.e.f. 20.09.2015. Before that the petitioner, President FCS, Kurichedu has conducted elections to the Managing Committee of the society on 10.09.2015 by himself by appointing an

advocate though the society is not unaided society and thus the same is not mere irregularity but illegal and invalid since it is contrary to the Provisions of the Act and Rules. Consequently, said Saida himself appointed K.Anji Reddy as an Election Officer by Society resolution and conducted elections to the Society without approval of District Election Authority-cum-District Collector as if the Kurichedu PCS is not an aided Society, even without such showing and that too, the previous elections were conducted as per the orders of the District Election Officer since it was the aided society. Thereby once the Commissioner of Fisheries, appointed PIC for the FCS, Kurichedu as the term of elected Managing Committee otherwise was expired by 20.09.2015 there is nothing illegality. Said Saida having questioned the same in his W.P.No.380 of 2016 and obtained interim orders by fraud on the Court and it is without even showing the society is unaided for the Kurichedu FCS is an aided Society because it is getting leasehold rights of Kurichedu minor irrigation tank every year from the Fisheries Department for subsidized rates and getting subsidies from the Department now and then for purchase of fish seed etc., undisputedly from the material on record referred supra and once the Society is in receipt of state aid as specified under Section 43 of the Act, the Society cannot conduct elections as if unaided by cause appointing Election Officer at its own but for the Registrar who is competent that shall hold elections to such class of societies as per the very Rule 22(b) of the Rules made under the Act referred supra.

17. Coming to the WP No.12914 of 2016 filed by said Saida (petitioner in W.P.Nos.36738 & 380 supra) with prayer of the Election Authority and Commissioner of Fisheries/ Ex-Officio Registrar of Co-operative Societies, AP-2nd Respondent is not responding on his

representation dated 4-4-2016 that as per Rule 17 of the A.P. State Fishermen Co-operative Societies Federation Limited (for short, 'the APSFCSFL'), District President is a Member and eligible to cast his vote to the State Level General Body as he is the District President of the FCS, Ongole, so to issue confirmation letter to him to exercise his franchise to vote in the elections to be conducted to the APSFCSFL, Hyderabad as illegal and to direct the respondents to permit him to participate in the Election to be conducted on 23-4-2016 to cast his vote to the above state Federation concerned, with averments that he was not even allowed to the meeting on 12.02.2016 at State level conducted by the official respondents, undisputedly there were no elections conducted on the date fixed. The respondents referring to the facts supra clearly averred and rightly contend that the Collector-cum-District Election Authority, Ongole alone is competent to conduct elections to the PFCSs duly appointing Election Officers u/sec.31(2)(b) r/w Rule 22(b) of the Act and once the term the post of President, DFCS, Prakasam district became vacant by 20.09.2015, and the Managing Committee meeting of DFCS, Prakasam District was called for on 04.11.2015 as per notice, dt.27.10.2015 of the 4th respondent and in the said meeting, the Vice President of the DFCS, was kept temporarily to act as President as per bye-law No.44, apart from Section 32(2)(a) of APCS Act, 1964 is not applicable to this case as the term in the capacity of the PFCS, Kurichedu was even expired by 20.09.2015 and he is seized to be in office from 20.09.2015 onwards, besides his ineligibility supra even otherwise, that in the first General Body Meeting held on 12.02.2016, it was resolved to conduct elections to the APSFCSFL after completion of the elections to the DFCS, Visakhapatnam and Krishna by the end of March, 2016 and further submitted that the other writs supra

are pending filed by Sk.Saida and some others in the High Court which are pertaining to Elections of various DFCSs. The further averments of the Counter affidavit of R.4-the AD of Fisheries for the respondents 1 to 5 in the W.P.No.12914 of 2016 are that pursuant to the Election schedule issued by the Ex-Officio/ Registrar of Co-operative Societies, AP, vide proceedings RC.No.5023/ 11/ 2014, dt.21.03.2016 to conduct elections to the APSFCSFL on 23.04.2016 M.Sai Krishnudu Special Category Deputy Registrar O/ o. Commissioner of Co-operative Societies, AP, Hyderabad was appointed as EO to the Federation, that as per Rule 22(2)(ii) the Chief Executive officer or president of the Society where there is no Chief Executive Officer shall prepare and publish the list of Members eligible to vote within seven(7) days after receipt of the communication from the Election Officer indicating Village/ Locality, age, Community and Male/ Female; that the Chief Executive Officer or President of the Society shall invite the claims or Objections from the members with 7 days thereafter. Prior to this the GM of the APSFCSFL has published the voters list on 04.04.2016 inviting objections upto 11.04.2016 if any objection seek by any member shall file objections before the GD of APSFCSFL, within stipulated time and as per Rule 22(2)(iii). Further the Government of A.P., vide Memo No.3168/ Fish/ A.2/ 2015, dt.13.04.2016, has decided to postpone the proposed elections to be held to the Managing committee of the APSFCSFL till the legal issues are sorted out, hence the Elections to the Managing Committee of the APSFCSFL that were scheduled to be held on 23.04.2016 could not be conducted and in this connection, a reply was sent to Sk. Saida vide Rc.No.5515/ 11/ 2015, dt.25.04.2016.

18. The facts as discussed supra shows his ineligibility from his claim of elections said to have been conducted by the incumbent

Managing Committee themselves on 10.09.2015 by appointing the Election Officer viz; Sri K.Anji Reddy, Advocate are illegal and against the provisions of the Act and Rules supra. As per the official respondents supra, the elections for the PFCS, Kurichedu could not be conducted by the Election Authority in time due to administrative reasons, the Ex-Officio Registrar of Co-operative Societies and Commissioner of Fisheries, AP, Hyderabad was pleased to issue orders appointing Person-In-Charge to manage the affairs of the said Society for a period of 6 months from 20.09.2015 to 19.03.2016 as a stop gap arrangement and pending conduct of elections to the Society by the District Election Authority, Ongole. So the contention of the petitioner claiming that he is President of PFCS, Kurichedu is not correct for there is no validity to the so called elections said to have been conducted for the PFCS, Kurichedu on 10.09.2015 by one Sri Kasu Anjireddy, Advocate, since it is an aided Society and thereby the elections to the Managing Committee of the said FCS are to be conducted under Rule No.22(b) of Act by an Election Officer appointed by the District Election Authority, Ongole. Once there is no validity and legality to the alleged elections said to have been conducted by the incumbent Managing Committee to the PFCS, Kurichedu by themselves for same is illegal consequent to that in the capacity of alleged President PFCS, Kurichedu said Saida claimed as elected to the post of President DFCS, Ongole on 28.02.2014 to continue for five years till 28.02.2019 is not correct and at present, he is no more in the office as president of PFCS, Kurichedu or DFCS, Ongole. It is submitted that the contention of the petitioner stating that he is continuing as President of DFCS, Ongole and his term is yet to be expired on is not correct. In fact, he is otherwise even ceased to be in the office w.e.f.20.09.2015 from which date, the term of his alleged Presidentship

as PFCS, Kurichedu was expired and as the post of President, DFCS, Ongole become vacant by 20.09.2015, the 5th respondent issued a notice for conduct of Managing Committee meeting of the DFCS, Ongole on 04.11.2015 to make alternate arrangements for smooth running of the DFCS, Ongole pending conduct of regular elections to the Society and in the said meeting one Gollapothu Venkataswamy, Vice President of the said Society was kept In-Charge to the post of President, DFCS, Ongole pending conduct of regular elections to that post.

19. Having regard to the above his all three writ petitions supra are liable to be dismissed and interim orders dt. 12.11.2015 directing the official respondents in W.P.No.36738 of 2015 of not to conduct elections to the DFCS, Ongole are liable to be vacated, leave about there is nothing even in the interim order for his continuing as president, DFCS, Ongole wherefrom he already ceased to be in office by 20.09.2015. Similarly the interim orders passed in WPMP No.477 of 2016, dt.06.01.2016, in WP No. No.380 of 2016, directing the official respondents, not to conduct elections to the PFCS, Kurichedu pending disposal of Writ Petition also is to be vacated. He was thereby and rightly not allowed by the 2nd respondent in a meeting conducted at State Level on 12.02.2016 for he cannot seek to allow him to cast his vote as President DFCS, Ongole in the elections to be conducted to the State Federation.

20. Coming to the prayer in writ petition No.42113 of 2017 filed by said Saida against 3 respondents viz; 1) the State of AP rep. by its Principle Secretary, Animal Husbandry, DD&F (Fish)Dept., 2) the EO/ Ex-Officio Registrar of Co-operative Societies, AP, Hyderabad and 3) the APSFCSFL with the prayer declaring the Memo No 3168/Fish/A2/2015 dt.13.04.2016 issued by the 1st respondent supra postponing the elections

to the managing committee of the APSFCSFL till legal issues are sorted out viz, writ petitions filed by Moka Nagababu to postpone conduct of elections to APSFCSFL till the election result of DFCS of Krishna district stayed by High Court finalized and representation from Kakinada of postponement till Krishna district and Visakhapatnam district DFCS participation and from Said Saida seeking stay and seeking confirmation and filed contempt case etc., and the consequential appointment of persons-in-charge as illegal and contrary to the provisions of law unsustainable and further seeking to direct the conduct of elections to the APSFCSFL-3rd respondent for election of managing committee of it in accordance with law and to pass such other orders concerned, it requires to decide with other writ petitions supra one by eleven presidents of the District Fisherman Co-operative Societies of eleven districts in the State of Andhra Pradesh, one by two presidents of the District Fisherman Co-operative Societies of two districts in the State of Andhra Pradesh, one by name Balasadi Ranga Rao, president of the Andhra Pradesh Fisheries Co-operative Society, Kakinada and one by Moka Nagababu, president of the Prabhu marine Fisheries Co-operative Society, Machilipatnam, Andhra Pradesh.

21. Of which the Writ Petition No.18916 of 2017 is filed by 11 petitioners-viz; respective so-called Presidents representing the DFCSs of the eleven districts and said Saida claimed as President of the DFCS Prakasam(who has no eligibility as discussed supra) among other DFCSs of East & West Godavari, Kurnool, Anantapur, Krishna, Srikakulam, Guntur, Visakhapatnam, Vijayanagaram and Kadapa districts, against 5 respondents viz; 1) the State of AP rep. by its Principal Secretary to Animal Husbandry, DD&F(Fish)Dept. 2) the EO/ Ex-Officio Registrar of Co-operative Societies, AP, 3) The MD of the APSFCSFL 4) the GM of the APSFCSFL and 5) the APSFCSFL , with the prayer similar to referred supra to declare the action of Respondents 2 to 4 in not considering the

General Body Resolution Dated 31-3-2017 and another General Body Resolution Dated 4-10-2016 regarding conducting of election to the 5th Respondent Federation as illegal and consequently to direct them to conduct elections to the 5th Respondent-State Federation with averments in the supporting affidavit of said Saida including on behalf of the other petitioners are similar to that of mentioned in W.P.No. No.42113 of 2017 filed by said Saida supra and with similar prayer in the WP No.20396 of 2017 filed by two petitioners viz; the DFCS, Guntur District rep. by its President N.Svaiah and the DFCS, Vijayanagaram District, rep. by its President B.Chinnapanna against the four official respondents viz; 1) the State of Andhra Pradesh rep. by its Spl.Chief Secretary to Animal Husbandry, DD&F(Fish)Dept., 2) the Commissioner of Fisheries, AP, 3) PIC of Konduru Palusetty (Chairman), President of the DFCS, Nellore and 4) the DFCS, West Godavari District rep. by its President A.Challa Rao(Vice-Chairman), to declare the action of the 2nd Respondent issued proceedings vide G.O. Rt. No 172 Dated 19-6-2017 Animal Husbandry Dairy Development Fisheries (Fish) Department appointing PIC without conducting elections is illegal arbitrary and to pass such other order or orders with averments that they are two out of 13 DFCSs and the General Body of the APSFCSFL is expired due to bifurcation of the State and thereafter got it registered as the APSFCSFL, Vijayawada and after its constitution, no elections have been conducted to the General Body and on the oral requests of the District Presidents, the Commissioner of Fisheries, issued proceedings by Letter No.171/ AF/ 2015, dt.26.03.2016 to conduct elections on 21.03.2016 to the State General Body and the schedule is incorporated in the letter but due to some reasons the election was postponed and later after discussions, the GM of State Body issued a notice No.20/ AF/ 16,

dt.30.09.2016 to conduct General Body Meeting on 04.10.2016 and all District Presidents participated in it in the presence of the 2nd respondent and again on 31.03.2017 the meeting was conducted and resolution was passed to conduct elections to the APSFCSFL and in spite of the requests made by all the District Presidents, the elections are not conducting by continuing PIC by G.O.Rt.No.271, dt.02.12.2015, inspite of the bye-law No.17 mentions 5 years period to the Members of the State General Body, that other 11 District Presidents filed W.P.No.18916 of 2017 on 07.06.2017 supra to conduct election to the State Federation and still the Respondents issued proceedings appointing R.3 as Chairman and R.4 as Vice Chairman to the APSFCSFL which action of the R.1 and R.2 is illegal and arbitrary to set aside.

22. Where as the WP No.8768 of 2016 is filed by one Moka Nagababu, President of Prabhu Marine Fisheries Cooperative Society, (for short, 'PMFCS') against 4 respondents viz; 1) the State of Andhra Pradesh rep. by its Principle Secretary, Co-operation 2) the Krishna District Fishermen Co-operative Society Ltd.,(the DFCS) 3) The Election Officer/ AD of Fisheries, Vijayawada and 4) the District Collector, Krishna District at Machilipatnam, to declare the action of the 3rd Respondent- Election Officer/ AD of Fisheries, Vijayawada in proceeding to conduct elections to the DFCS-Krishna District-2nd respondent on 18.3.2016 without publishing the final voters list and permitting the Person-In-charge of about 15 Societies to vote in the election, as illegal and contrary to the provisions of A P Cooperative Societies Act 1964 and the A P Cooperative Society Rules 1964 and to pass such other order or orders with the averments that the Members of PFCS-R2 are entitled to vote in the election to be conducted for constitution of Managing Committee of it and there are also 139 Primary Agriculture Societies and

the elected Presidents of the respective Societies shall consist of the voters list, that 4th respondent-District Collector, issued an Election Notification dt.02.02.2016 along with voters list and appointed the AD of Fisheries, Vijayawada as the Election Officer and as per the notification, the election to be conducted on 18.03.2016 and a perusal of the voters list shows that though there are PICs for about 15 Societies where there is no President at all, the Presidents are shown to be the voters and when enquired, the R.3-Election Officer stated that he would be permitting the PICs to vote on behalf of the President, that unless a final voters list is prepared, the Election Officer cannot conduct election for Rule 22(2) contemplates appointment of the EO and Rule 22(2)(b)(iii) shows the President of the Society or the Chief Executive Officer shall invite the objections from the Members within seven days after communication issued by the EO and for 15 Societies, no election was conducted and there is no President and no such procedure calling objections was followed and they are acting upon the preliminary voter list as a final list and the 3rd respondent is proceeding to conduct elections though PICs cannot vote rep. the PCs of Polatithippa, Medimpeta, Jaggaiahpetta, Padamata, Kotha Thummalapalem, Palli Thallapalem, Vullingipalem, Bantumilli Brackish Water Society, Bantumilli, Sorlagondhi, Gudlavalleru, Palli Thallapalem, Rudravaram, Women Fisheries Co-operative Society of Saradanagar, Pallithummalapalem and Bantumili.

23. Similarly the WP No.10488 of 2016 is filed by Balasadi Ranga Rao, President of A.P. Fisheries Co-operative Society, (for short, 'the Petitioner Society') against 4 respondents viz; 1) the State of Andhra Pradesh rep. by its Principle Secretary, Fisheries Department 2) the Commissioner, A.P. Fisheries Department, 3) The Chairman(in-charge),

the APSFCSFL, Hyderabad, 4) the MD, the APSFCSFL and 5) the DFCS, rep. by its President A.Challa Rao, East Godavari District (R5 is impleaded as per Court Order, dt.6/04/2016 in WPMP No 13595/2016) declaring the notification of 2nd Respondent in his RC No 5023/II/2014 Dated 21-03-2016 to conduct the elections to the State Federation by Proceedings in RC.No.5023/II/2014 Dated 21-03-2016 as illegal and contrary to law and resolution passed by this state-level body and consequently direct the Commissioner to conduct the elections after the results of Visakhapatnam District Co-Operative Fishermen Society are announced after vacation of the stay granted by this Honourable High Court with the averments that the Executive Committee of the State federation that shall be elected is from among the Members of the Executive Committee of the 13 Districts for one of them respectively will be elected as President and Vice President and the remaining 11 shall function as Executive Committee Members that a resolution was passed on 12.02.2016 for conducting the elections to the State Level Body in the last week of March, 2016 and the concurrence of the Commissioner was obtained, however by then elections were not conducted to the Visakhapatnam district and the declaration of result of Krishna district was stayed by the High Court in W.P.M.P.No.11505 of 2016 in W.P.No.8768 of 2016, dated 17.03.2016, that elections to the State Federation can only be conducted after vacating the stay only with regard to Krishna District and after elections to Visakhapatnam district so that all the 13 districts represent the State Level Body and in the above context it would not subserve for the cause of the society if the elections to the State Level Body without representations from Visakhapatnam and Krishna District are conducted.

24. The averments in the counter of the R.3-GM of APSFCSFL on behalf of all the respondents in W.P.No.18916 of 20017 filed by the eleven petitioners of whom said Saida is the 1st petitioner rep. the DFCS, Prakasam district and similar contest in other matters referred supra to avoid repetition are that no resolutions were passed in the 2nd General Body Meeting which was held on 04.10.2016 for conducting of election to the APSFCSFL, however, the issue was resolved in the 3rd General Body Meeting of APSFCSFL, dt.31.03.2017 to address the Government and accordingly later addressed the Government for conducting elections to the Managing Committee of the APSFCSFL. In the first General Body Meeting held on 12.02.2016, though it was resolved to conduct elections to the APSFCSFL after completion of the elections to the DFCS, Visakhapatnam and Krishna by the end of March,2016 and accordingly the elections schedule of 21.03.2016 to the APSFCSFL was issued but some of the Societies have approached the High Court in W.P.No.8768 of 2016 on declaring the action of the Election Officer in proceeding to conduct of Elections to the DFCS supra and obtained interim order,dt.17.03.2016 that 'Elections to the 2nd respondent-Society may go on, however results of the same shall not be announced for a period of 4 weeks'. Said interim direction is still in subsistence and a C.C.477 of 2016 was filed by SK.Saida for not implementing the orders of the High Court in W.P.No.36738 of 2015,dt.20.11.2015, hence the Government vide Memo No.3168/ Fish/ A2/ 2015,dt.13.04.2016 postponing the elections to be held to the Managing Committee of R.3-APSFCSFL till the settlement of legal issues but after postponement, the issue was discussed in the 3rd General Body Meeting Dt.31.03.2017 and resolved to request the Govt. for conducting elections to the APSFCSFL and minutes of it were communicated to Government.

It is further submitted that in the 2nd General body of the APSFCSFL in its meeting held on 04.10.2016 not passed any resolution about conducting the elections to the APSFCSFL as court cases are pending at that time. Further the Government vide G.O.Rt.No. 271, dt.02.12.2015 appointed the Commissioner of Fisheries, AP, Hyderabad as PIC to the APSFCSFL till the elections are conducted to the Managing Committee of it. It is further submitted that as per the bye-law the term of the elected Managing Committee is 5 years. The 2nd respondent-the Commissioner of Fisheries requested the Government vide Lr.No.5023/ 2014/ 11/ dt.16.06.2017, to appoint one or two persons among the 13 DFCS Presidents as Person-In-Charge to the APSFCSFL u/ sec.32(7)(a) of the Act for a period of 6 months or till the elections are conducted whichever is earlier. The Government vide G.O.Rt.no.172, dt.19.06.2017 appointed Sri Konduru Palusetty as Chairman and Andraju Chella Rao as Vice Chairman, the Non-Official PIC Committee to manage the affairs of the APSFCSFL. for a period of 6 months w.e.f. the date of assuming charge or till the elections and accordingly, a letter vide Lr.No.66/ AF/ 2017, dt.19.06.2017 was addressed to the Government to take decision for conducting elections to the APSFCSFL.

25. The contentions of the counter affidavit of the 2nd respondent-Commissioner of Fisheries, in W.P.No.20396 of 2017 are further that the elections were held for DFCS, Visakhapatnam and Krishna and the Government vide Memo No.3168Fish/ A2/ 2015, dt.13.04.2016 has decided to postpone the proposed elections till the legal issues are sorted out, later the issue was discussed in the 3rd General Body Meeting Dt.31.03.2017 and resolved to request the Govt. for conducting elections to the APSFCSFL. It is further submitted that in the 2nd General body meeting of the APSFCSFL held on 04.10.2016 not

passed any resolution about conducting the elections to the APSFCSFL as court cases are pending at that time and accordingly a letter was addressed to the Government to take decision on conducting elections and on that Government issued G.O.Rt.No.271,dt.02.12.2015 appointing the Commissioner of Fisheries, AP, Hyderabad as Person-In-Charge u/sec.32(7)(a) of the Act, to manage the affairs of the APSFCSFL till the elections are conducted to the Managing Committee of the Federation. It is further submitted that as per bye-law, the term of the elected Managing Committee is 5 years. The 2nd respondent requested the Government vide Lr.No.5023/ 2014/ 11/ dt.16.06.2017, to appoint one or two persons among the 13 DFCS Presidents as PIC to the APSFCSFL u/sec.32(7)(a) of the Act for a period of 6 months or till the elections are conducted whichever is earlier, as the 2nd respondent is overburdened with increase in the workload as several schemes of GOI and State Government are being implemented compared to the year 2015 and also attending review meetings conducted by the State at State Level and Country Level. He further submits that there is no intentional delay in conducting elections to the APSFCSFL except sorting out the legal issues for smooth conduct of the election.

26. From the above, though there is nothing to show Government is intentionally delaying but for considering representation of one or other from the rival representations supra of one to conduct election by questioning appointment of PIC and the other not to conduct election till district level society election result finalized for its participation. However, the fact remains that it is the duty to conduct elections duly once the tenure is completed as fixed statutorily but for any compelling reasons. So far as the result of declaration of the election held for the Krishna DFCS concerned since stayed by High Court, it is left open to

anybody among the writ petitioners of the batch to seek impleadment for early disposal of that writ petition if at all the person who sought stay on that ground is diligent enough particularly to seek for disposal of the writ petition and cannot indefinitely under that guise seek for postponement of the elections to the State Federation. Further so far as Visakhapatnam DFCS, from appointment of Election Officer, the process can be commenced including finalization of voters list and once for some of the societies PICs appointed from certain societies elections not conducted concerned, the authorities cannot postpone the election of the State Federation but for to speed up the process unless there is a Court stay and if not anybody by due diligence cause it disposed of expressing the urgency.

27. Having regard to the above, the authorities are directed to take up the process of elections to the State Federation within six months by waiting for three months from now if at all meantime, the matters pending with stay if any in the High Court regarding conducting of elections of Krishna and Visakhapatnam district finalized and even if not finalized by ignoring it the authorities by virtue of this order proceed to conduct election to the State Federation within the time bound supra unless in the pending writ petitions relating to the DFCS of Krishna and Visakhapatnam before the Court there is any order of stay for conducting elections to the State Federation. Accordingly, these Writ Petitions can be disposed of.

28. So far as the WP No.3064 of 2018 also filed by said Saida supra against 6 respondents viz; 1&2) the State of AP rep. by its Principle Secretaries of Revenue Department and Animal Husbandry-DD&F Dept., 3) the Special Chief Secretary to the Government, Animal Husbandry-DD&F Dept. 4) The Commissioner of Fisheries, Poranki, 5) Joint Director

(for short, 'the JD') of Fisheries, Ongole and 6) The AD of Fisheries, Chirala to declare the G.O.Ms.No.98 Dt.22.01.1964, issued by Govt. of AP, Revenue Department and followed by the Respondent Nos.4 to 6, as Illegal and contrary to the Guidelines in existence for admission of members into Fishermen Co-operative Societies through Bye-Law 4(a) and Clause G of G.O.Ms.No.74, Dt.21.10.2011, Section 19 of the Co-operative Societies Act and Article 19(1)(g) & 14 of the Constitution of India and to declare said G.O. as not applicable to the petitioner to continue as Member in the Kuruchedu Fishermen Co-operative Society since 1998 after qualified in skill test concerned, he claims as belongs to Muslim community and his sub caste 'shaik' is placed in BC-E category, that the bye-law 4(a)&(b), dt.16.11.1992, issued by the 4th respondent-Commissioner of Fisheries, which is a model bye-law compulsorily incorporated by every the PFCS in the State and as per which any person having fishing skills and his main occupation of livelihood is fishing and who is competent to contract and is residing in the area of operation of the Society shall be eligible for admission as a Member of the FCS and the bye-law further says the FCS is meant exclusively for economically weaker sections whose main occupation is fishing and he belongs to the economically weaker section, that the intention of Govt. in issuing the G.O.Ms.No.74, dt.21.11.2011 is to prescribe guidelines for conducting skill test for identification of Members for organization of new inland FCSs. Clause-G of the G.O. is regarding the Selection of applicants and this Clause says at the first instance, applicants listed in G.O.Ms.No.98, dt.22.01.1964 shall be provisionally selected. Still if there is viability in the Society, the categories mentioned in Clause-G(i)(ii) can be selected and there is no absolute bar as to the communities not mentioned in G.O.Ms.No.98 shall not be selected. Said GO is inconsistent with bye-

law-4(a) and also Section 19 of the Act. He further avers that while in existence of bye-law No.4(a),dt.16.11.1992, the Government without even giving any date, issued another bye-law recently and contemplating that the bye-law 4(a) issued recently is to be followed without even canceling the earlier bye-law which action of the authorities trying to eliminate the genuine members of the FCSs and including bogus members ignoring the rules and regulations without mentioning communities of the members in G.O.Ms.No.98, is unjust and illegal. It is further submitted that the Commissioner of Fisheries vide his Circular Memo. No.3739/ 12/ 2012, dt.09.05.2012 also clarified that 'the majority of the fishermen Co-operative Societies already in existence have been formed many years ago. Most members have become very old today whereas G.O.Ms.No.74 came in 2011 as the Government Intention is to apply it prospectively and not retrospectively'. It is further averred that the G.O. supra is contrary to Section 19 of the Act and executive orders issued under Article 162 of the Constitution of India cannot have overriding effect over the statutory provisions. It is further submitted that earlier this Court quashed both the G.Os.70 and 71, dt.23.07.1998 which are inconsistent with Section 56(1) of the Panchayat Raj Act, in W.P.No.16970 of 1999. The District Fisheries Officer in reply to the letter of the Commissioner of Fisheries, A.P.dt.08.01.2018, furnished the details of the petitioner is member in Kurichedu FCS belongs to Muslim community and his caste is 'Shaik' and belongs to BC-E category.

29. Though the petitioner belongs to Muslim community and his sub-caste 'Shaik' belongs to BC-E category, the Muslim caste has not been included in the list of 30 castes shown in G.O.Ms.No.98, Rev.Dept.,dt.22.01.1964 and G.O.Ms.No.74, dt.21.10.2011 and 35, dt.29.04.2003 of A.H.D.D. & Fisheries (Fish.II) Dept., undisputedly.

Section 19 of the Act on eligibility of membership speaks from sub-section 1(a) that subject to provisions of Section 21 an individual attained majority and of sound mind and belongs to a class of persons, if any for whom the society is formed as per its bye-laws and who paid the minimum share capital as prescribed by the Registrar from time to time and who possesses such qualifications as may be specified in the bye-laws or as may be prescribed for the concerned class of societies in the interest of cooperative movement.-----Section 19(2)(A) speaks that any person duly qualified for admission as member under the provisions of the Act, the Rules and the bye-laws, may apply, through the Registrar for the membership----- Section 19(2)(B) speaks that notwithstanding anything in this Act, the Registrar may either suo-motu at any time or on application by the society or any aggrieved person made within 15 days from date mentioned in sub-section 2(a) and after giving opportunity to the person concerned and recording reasons therefrom declare such person as not eligible for membership of the society within 30 days from the date of receipt of the application by the Registrar. What section 21 speaks from sub-section 1 is that a person shall be disqualified by being admitted as and for being, a member, if he (a)-----insolvent; or (aa) is not eligible for membership under Section 19(amended by Act 28 of 1988);-----

What section 21 speaks further from sub-section 3 is that where any person who is not eligible for being admitted as member has been admitted as member or the member who is disqualified to continue as such under sub section 1 is continued as member, he shall be removed by the general body on its own motion or on a representation made to it by any member of the society or its federal society or its financing bank: provided that no member shall be removed under this sub section unless

he had an opportunity of making a representation against the proposed action. A copy of the resolution removing the member shall be communicated to such person and on such communication he shall be deemed to have ceased to be a member of the society (amended by Act 22 of 2001). Coming to the contention that the bye-law 4(a)&(b), dt.16.11.1992, issued by the Commissioner of Fisheries, which is a model bye-law compulsorily incorporated by every the PFCS in the State and as per which any person having fishing skills and his main occupation of livelihood is fishing and who is competent to contract and is residing in the area of operation of the Society shall be eligible for admission as a Member of the FCS and the bye-law further says the FCS is meant exclusively for economically weaker sections whose main occupation is fishing and he belongs to the economically weaker section concerned, it is a factual disputed aspect for him to establish if at all any notice given to him to disqualify him from the very provision provided by the combined reading of Sections 17 r/w.21 of the Act. Nothing shown of the G.O.Ms.No.98 is running contrary to Section 19 or 21 of the Act supra. The G.O.Ms.No.98 Dt.22.01.1964, issued by Govt. of AP, Revenue Department and followed by the Respondent Nos.4 to 6 is no way shown unconstitutional or hit by Article 14 of the Constitution even to make any such contention. Having regard to the above the Writ Petition is liable to be dismissed without prejudice to work out his remedies provided inter-departmentally under the Act if at all any notice to remove his membership issued to show his eligibility to decide on facts for undisputedly does not belong to any of the 30 communities covered by the G.O.

30. Accordingly and in the result:-

i). W.P.No.36738 of 2015 is dismissed and the interim order, dt.12.11.2015 stands vacated.

ii). W.P.No.380 of 2016 is dismissed and interim order dt.06.01.2016 stands vacated.

iii). W.P.No.12914 of 2016 is dismissed for the petitioner cannot be permitted to exercise any franchise particularly in view of the orders in his two other Writ Petitions vide W.P.Nos.36738 of 2015 and 380 of 2016 supra.

iv). W.P.Nos.8768 and 10488 of 2016, 18916, 20396 and 42113 of 2017 are disposed of with directions to the authorities concerned to take up the process of elections to the State Federation within six months by waiting for three months from now if at all meantime, the matters pending with stay if any in the High Court regarding conducting of elections of Krishna and Visakhapatnam district finalized from anybody so seeks and even if not finalized by ignoring it the authorities by virtue of this order proceed to conduct election to the State Federation within the time bound supra, unless in the pending writ petitions relating to the DFCS of Krishna and Visakhapatnam before the Court there is any order of stay for conducting elections to the State Federation.

v). W.P.No.3064 of 2018 is dismissed holding that nothing shown of the G.O.Ms.No.98, dt.22.01.1964 is running contrary to Section 19 or 21 of the Act supra or otherwise unconstitutional in anyway. Liberty is given to work out his remedies provided inter-departmentally under the Act if at all any notice to remove his membership issued to show his eligibility to decide on own facts for undisputedly does not belong to any of the 30 communities covered by the G.O. supra.

Consequently, miscellaneous petitions, if any, pending in these
Writ Petitions shall stand closed.

Dr. B. SIVA SANKARA RAO, J

Date:04.06.2018.
vvr

