

THE HON'BLE SRI JUSTICE P. NAVEEN RAO

WRIT PETITION No.47031 OF 2018

Date:27.12.2018

Between:

Bandaru Vijay Kumar,
S/o. Sri B. China Venkata Swamy,
Hindu, aged 49 years, Occ: Business,
R/o.H.No.3-15/1, Main Road, Lakkavaram
Village, Malikipuram Mandal, East
Godavari District, Andhra Pradesh .. Petitioner

And

The State of Andhra Pradesh, rep., by its
Principal Secretary, Cooperation Department,
A.P. Secretariat, Velagapudi, Amaravathi,
Guntur District, Andhra Pradesh and others .. Respondents



The Court made the following:

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ORDER:

Heard learned counsel for the petitioner, learned Government Pleader for Cooperation for respondents 1 and 2 and Sri P. Chandra Sekhar Reddy, learned counsel for respondents 3 to 11.

2. Petitioner is President of K. Battelanka Primary Agricultural Cooperative Credit Society Limited, Battelanka, Malikipuram Mandal, East Godavari District. In this Writ Petition, petitioner, challenges the notice dated 13.12.2018 convening a meeting of the Executive Committee of the Society to consider motion of no confidence moved by nine members of the Society.

3. The said notice is challenged primarily on two grounds. Firstly, notice was not served by the signatories to the requisite members to convene a meeting to consider the motion of no confidence, but third parties were served, and secondly, the tenure of the Executive Committee was over and the present Committee is continuing on account of extension granted by the Government and the extended period would expire on 02.01.2019.

4. Section 34-A of the Andhra Pradesh Cooperative Societies Act, 1964 (for short, 'the Act') enables moving motion of no confidence in the President and Vice President of the Committee and such motion should be moved in accordance with the procedure laid down in the said Section. According to Section 34-A (2) of the Act, a written notice of intention to make the

motion, in such form as may be prescribed, signed by not less than one-half of the total number of members of the Committee together with a copy of the proposed motion shall be delivered in person, by any two of the members signing the notice, to the Registrar having jurisdiction over the Society. On receipt of the said notice of motion of no confidence, the Registrar shall convene a meeting, which shall not be later than thirty days from the date on which the notice under sub-section (2) was delivered.

5. The two ingredients required to treat a notice as valid for moving no confidence motion are, (i) the motion must be signed by one-half of the total number of members of the Committee and (ii) it should be delivered, atleast by two members who sign the notice, to the Registrar. What is sought to be contended is, notice is not delivered to the Registrar by two members who were signatories to the notice to move motion.

6. A bare reading of the notice dated 13.12.2018 itself would show that Sri Geddam Nageswara Rao and eight other Managing Committee Members have served the notice. Thus, all the nine members of the Society personally stated to have served notice. On instructions, even learned Government Pleader for Cooperation also submits that at any rate notice was served by atleast two members of the Managing Committee. Except for alleging that the notice was not served by the members who were signatories to the notice, but was stated to have been served by one Bonam Lakhmi Trinada Papayamma and B.V.V. Subrahmanyam, no material is placed on record to show that notice was not served as required by Section 34-A of the Act.

These two names mentioned in paragraph No.7 of the affidavit filed in support of the Writ Petition are the two witnesses to Form AAA, dated 10.12.2018. It appears, the petitioner is assuming as if these two persons delivered notice. Except said assertion, no other material is placed on record.

7. As of now, the existing Committee is continuing. A bare reading of Section 34-A of the Act, it is clear that it does not make any distinction on left over period of tenure of the Committee or expiry of the tenure within a short period.

8. As there is no statutory embargo of moving no confidence motion merely because the existing Committee's tenure is coming to an end within a short time, the motion moved by the members of the Committee and consequential notice issued cannot be declared as illegal on that ground. Further, there is no prohibition of moving no confidence motion against the President of the Managing Committee, even if such Committee is continued on account of extension granted. Learned counsel for the petitioner also does not dispute the possibility of further extension being granted on completion of the present tenure.

9. Thus, the contention of learned counsel for the petitioner is stated to be rejected. The Writ Petition merits no consideration. The Writ Petition is accordingly dismissed. There shall be no order as to costs. Pending Miscellaneous Petitions, if any, shall stand closed.

P. NAVEEN RAO, J

Date:27.12.2018

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