

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.18629, 12256 & 7622 of 2019

COMMON ORDER:

Since the issue involved in all these writ petitions is one and the same, they are being heard together and disposed of by way of this Common Order.

2. W.P.No.18629 of 2019

This Writ Petition is filed assailing the action of the 3rd respondent in trying to approve the election proposal of the 6th respondent for 2019 of the 7th respondent society-The Hyderabad District Government Employees Co-operative Housing Society Ltd., (for short 'Housing Society'), pending action of the 2nd respondent in proceedings Rc.No.10192/2017-HR-2, dated 18.04.2019 as illegal and contrary to the directives of the 3rd respondent issued in Rc.No.16438/2000/Housing (1), dated 07.06.2000 and for consequential directions.

3. It is the case of the petitioner that the 7th respondent-Housing Society was constituted and registered under the provisions of Co-operative Societies Act, 1964 (for short 'the Act of 1964') vide Regd.No.146/HC/1958 with the object of providing residential houses to its members and also for welfare of its members, who are permanent Government employees being TNGOs of Hyderabad and Ranga Reddy District. The petitioner was allotted plot bearing No.210 in Sy.Nos.203/P to 210/P, situated at the TNGO Co-operative Housing Society, Manikonda Jagir Village, Gandipeta (formerly

Rajendra Nagar) Mandal, Ranga Reddy District vide allotment Certificate dated 22.07.2012 and he was also inducted into possession on receipt of consideration amount and that he is in possession and enjoyment of the same. Since his name was not found in the voters list prepared by the 7th respondent Society, he filed objection on 25.07.2019 before the 7th respondent Society requesting to include his name. Without issuing any notice or an opportunity of hearing, the 7th respondent Society issued notice on 17.08.2019, for payment of alleged dues from the members and from the petitioner i.e., Rs.1,05,800/- within a period of three days i.e., on or before 20.08.2019. Assailing the same, he filed WP No.17878 of 2019, wherein this Court granted interim order on 20.08.2019 directing the petitioner to deposit the arrears of amount within a period of ten days and thereafter, his name shall reflect in the voters list and he may be permitted to vote in the elections scheduled to be held shortly. It is alleged that the 7th respondent Housing Society failed to follow the directions contained in circular dated 07.06.2000 issued by the 3rd respondent regarding functioning and membership. Though the 3rd respondent, after conducting enquiry, submitted a report in Rc.No.10192/2017-HR-2, dated 18.04.2019 to the 2nd respondent regarding various irregularities committed by the 7th respondent Housing Society and also requested for taking necessary steps for resuming the vacant plots allotted to the non-members of the Housing Society, no action is being taken against the 7th respondent Society.

4. W.P.No.12256 of 2019

This Writ Petition is filed seeking writ of mandamus declaring the action of the respondent Nos.2 & 3 in not taking any steps to conduct elections to the 4th respondent Housing Society as per the order dated 02.03.2019 in CTA No.5 of 2018 passed by the Telangana Co-operative Tribunal, Hyderabad as illegal, arbitrary and for consequential directions.

5. It is the case of the petitioners that they are the members of the 4th respondent Society and they were allotted individual plots by the said Society in the land admeasuring Ac.50.00 gts in Sy.Nos.203/P, 204, 205, 206, 207, 208, 209 and 210/P, after payment of consideration and that after obtaining necessary permissions from the competent authority, they have constructed houses and that they are in peaceful possession and enjoyment of the same. In pursuance to the elections conducted on 19.03.2014, respondents 5 to 13 were elected as members of the Executive Committee/Managing Committee of the 4th respondent Society and that after taking charge as such, they have committed grave irregularities in allotment of plots by creating by-numbers without any authority and contrary to the approved layout issued by the HMDA; allotted plots to various third parties other than members of the 4th respondent Housing Society with vested interest and also misappropriated the funds by tampering the old records of the society; enrolled new members into the Society after 2014 and that even allotted plots to the Government Officials, who are not members of the 4th respondent Housing Society. The members of the previous

managing committee have deliberately removed the names of old members of the 4th respondent Housing Society to deprive them of the house sites. Though the Revenue Department, Government of Telangana had issued Memo No.53613/Assn.II(2)/2009, dated 09.05.2016 calling for the information with regard to the list of total applications/members, their eligibility and other particulars, the 4th respondent Society failed to furnish such information. In pursuance to the decisions of the meeting held on 23.12.2017, the District Collector, Ranga Reddy District had passed order in Proceedings No.LC2/612/1990, dated 26.02.2018 to take over the possession of the land into safe custody and directed the Tahsildar, Gandipet Mandal to take over the physical possession of the land to an extent of 3176 sq.mtrs shown as commercial area and an extent of 2602 sq.mtrs shown as school area belong to the 4th respondent Society. The 3rd respondent issued proceedings in Rc.No.3126/2015-H, dated 27.02.2018 superseding the Managing Committee of the 4th respondent Housing Society under Section 34(1)(c) of the Telangana Cooperative Societies Act and appointed Sri B.Sathyanarayana Reddy, Assistant Registrar/Field, Rajendranagar as Official Administrator to manage the affairs of the 4th respondent Housing Society for a period of not exceeding six months or till the elections are conducted to the managing committee of the society, whichever is earlier. The 3rd respondent had submitted a report to the District Collector, Ranga Reddy District vide proceedings Rc.No.3126/2015-H, dated 02.01.2019 about the serious irregularities, breach of principles and misappropriation of funds committed by the Ex-

managing committee members in the allotment of house plots in violation of Rules and Government Orders and recommended for action against the Managing Committee members. Since the term of the earlier Managing Committee of the 4th respondent society comes to an end on 18.03.2019, the 3rd respondent passed an order in Rc.No.3126/2015-H, dated 16.03.2019 appointing Sri S.Chandra Mohan Reddy, Assistant Registrar as Official Person Incharge U/s.32(7) (u)(i) of the Act to manage the affairs of the 4th respondent Housing Society and subsequently, he passed another order on 26.03.2019 appointing the last elected Managing Committee as Non-official Person Incharge Committee under Section 32(7)(a)(i) of the Act only on the reason of the recent parliament elections scheduled to be held on 11.04.2019 and that it is not possible for Sri S.Chandra Mohan Reddy to function as official person incharge of the 4th respondent society. The 3rd respondent again passed order on 04.05.2019 extending the period of non-official Person Incharge committee for a further period of 45 days beyond 04.05.2019 or till the elections to the Managing Committee are held whichever is earlier and the said period comes to an end on 19.06.2019. Though there are serious allegations of misappropriation of funds and allotment of plots to ineligible and nonmembers of the 4th respondent society, the 3rd respondent appointed the earlier Managing Committee as Non-official Person Incharge committee to the 4th respondent society by replacing the earlier order passed by him on 16.03.2019 appointing S.Chandra Mohan Reddy as official incharge, without any valid reason and making false averment that the said

S.Chandra Mohan Reddy had been drafted for election duty for HOP-2019, but S.Chandra Mohan Reddy, Assistant Registrar is a physically handicapped and he was exempted for election duty in the recent Parliament Elections, as such, absolutely there is no justification for appointment of last Elected Managing Committee as Non-official Person Incharge Committee. The respondents 2 & 3 have deliberately failed to take steps for conducting elections to the Managing Committee of the 4th respondent society. Instead of conducting elections as directed by the Telangana Cooperative Tribunal, Hyderabad, the 3rd respondent had extended the term of the Non-official Person Incharge Committee for further period of 45 days from 04.05.2019. The respondents 2 & 3 did not initiate any preparations for holding the elections to the Managing Committee of the 4th respondent having knowledge about the expiry of the period of Non-official person Incharge Committee on 19.06.2019. Though the Telangana Cooperative Tribunal passed orders in CTA No.5 of 2018 to conduct elections, the respondents 2 & 3 failed to conduct elections and sought for a direction to the respondents 2 & 3 to conduct elections to the Managing Committee of the 4th respondent by appointing Official Person Incharge.

6. The petitioners have filed I.A.No.3 of 2019 is filed for amending the prayer in the writ petition, for declaring the action of the 3rd respondent in issuing the order in proceedings Rc.No.3126/2015-H, dated 18.06.2019 extending the term of the non-official person incharge committee of the 4th respondent society for a further period of 90 days, without conducting elections as bad, arbitrary, illegal and

unconstitutional and contrary to the judgment dated 02.03.2019 in CTA No.5 of 2018 passed by the Co-operative Tribunal at Hyderabad and consequently to direct the respondents 2 & 3 to appoint Official Person Incharge to manage the affairs of the 4th respondent society and to conduct elections to its Managing Committee as per the provisions of the Act and Rules, which is allowed today.

7. Additional affidavit is filed by the petitioner reiterating the averments in the affidavit filed in support of the writ petition stating that since the previous members of the PIC, have committed several serious irregularities in managing the affairs of the 4th respondent Society and that they are working against the interest of the members of the society, the respondents 5 to 13 cannot be allowed to continue as members of the PIC of the 4th respondent Society, as such, the impugned orders passed by the 3rd respondent dated 18.06.2019 is liable to be set aside.

8. Counter affidavit is filed by the respondent 1 to 3 denying the averments in the affidavit filed in support of the writ petition stating that as per the orders of the Cooperative Tribunal in CTA No.5 of 2018 dated 02.03.2019, the 3rd respondent passed orders appointing the Non-Official Persons In-charge Committee Members i.e., respondents 5 to 13 vide proceedings dated 26.03.2019 for a period of 45 days and directed the respondents 5 to 13 to submit election proposals along with the list of eligible voters in accordance with Rule 22 of the Act of 1964 to the Registrar for conduct of elections to the committee of the Society. Since the respondents 5 to 13 made representation on 22.04.2019 stating that due to non receipt of the

records from the Ex-official PIC and from the Cooperative Tribunal, they could not prepare the list of eligible voters list with all the required information, as such, the Non-Official PIC Committee was extended for a period of 45 days vide proceedings Rc.No.3126/2016-H, dated 04.05.2019. Thereafter, on the representation of the respondents 5 to 13 for extension of the term of Non-Official PIC Committee for a further period of 90 days, as they could not prepare the list of eligible voters and other information, and also on the instructions of the 2nd respondent vide memorandum Rc.No.20903/2012/HR-2, dated 18.06.2019, the 3rd respondent passed orders vide proceedings Rc.No.3126/2015-H, dated 18.06.2019 extending the term for a further period of 90 days.

9. Counter affidavit is filed by the 4th respondent denying the averments in the affidavit filed in support of the Writ Petition stating that since the earlier Administrator Mr.Chandramohan Reddy failed to handover entire record pertaining to the society to enable the Committee Members to prepare the voters list, the 4th respondent was constrained to seek further extension of term beyond 04.05.2019, as such, the 3rd respondent vide impugned proceedings dated 18.06.2019 extended the term of PIC for a period of three months, as such, there is no irregularity or irrationality on the part of the 3rd respondent in extending the term of PIC under the impugned proceedings. It is also stated that this respondent is not aware of the proceedings issued by the 3rd respondent dated 16.03.2019 appointing S.Chandra Mohan Reddy, Assistant Registrar as Official PIC, but they only aware of the proceedings dated

26.03.2019, which was issued in consonance with the order of Tribunal. It is also stated that the proceedings issued in favour of the 4th respondent appointing it as Non-Official PIC is in terms of the order of the Cooperative Tribunal dated 02.03.2019, as such, same cannot be faulted.

10. Reply affidavit is filed by the petitioners denying the averments in the counter affidavits filed by the respondents 1 to 4 and reiterated the averments in the affidavit filed in support of the writ petition.

11. W.P.No.7622 of 2019

This Writ Petition is filed seeking to issue writ of certiorari calling for the records pursuant to the impugned orders dated 26.03.2019 in proceedings Rc.No.3126/2015-H on the file of 2nd respondent and consequently set aside the same by restoring the orders dated 16.03.2019 in proceedings Rc.No.3126/2015-H.

12. Heard Sri Srinivasa Rao Putluri, Sri C.Damodar Reddy, learned counsel for the petitioners, Sri N.Rajeshwar Rao, learned counsel for the respondent-Housing Society, and learned Government Pleader for Cooperation appearing for official respondents.

13. Learned counsel for the parties has advanced their arguments while reiterating the averments in the affidavits as well as counter affidavits.

14. For the sake of convenience, the parties hereinafter will be referred to as arrayed in WP No.12256 of 2019 i.e., the 2nd respondent (for short 'the Commissioner for Cooperation'), 3rd

respondent (for short 'the Joint Registrar/District Cooperative Officer' or 'DCO') and the 4th respondent-the Hyderabad District Government Employees Co-operative Housing Society Ltd., (for short 'the Housing Society').

15. The learned counsel for the parties have raised several contentions mainly making allegations against 4th respondent, which are referred to above and also sought directions for conducting of elections to the respondent Housing Society, as per the directions of the Cooperative Tribunal in CTA No.5 of 2018, dated 02.03.2019 and redressal of their grievance with regard to deletion of their names from the voters list.

16. It is to be seen that the Commissioner for Cooperation had submitted a report to the Principal Secretary Revenue (Assn II) Department, vide Rc.No.10192/2017-HR-2, dated 18.04.2019 with regard to serious irregularities committed by the Managing Committee members of the Housing Society. In the said report, *Prima facie*, the Commissioner for Cooperation and Registrar of Cooperative Societies, after scrutinizing the report of the Official Person Incharge of the Society dated 16.11.2018, found the illegalities committed by the Managing Committee of respondent Housing Society, which reads are as follows:

“i) The admission and allotment of plots to the members was not done according to the guidelines issued by the Government through GO Ms No.633, Dt.17.11.1992 and GO Ms No.416 of Revenue (Assn I) Dept Dt 18.03.2003.

ii) The Managing Committee of the society have not followed any procedure in allotment of plots and it is only upto the whims and fancies of the Managing Committee of the society. They did not follow any seniority for allotment of plots to members. The Managing Committee whose power is solely exercised by 1 or 2 members of the committee, cancelled the allotments and re allotted to other members a per their whims ostensibly for other

considerations. There are about (622) employees from different departments have enrolled as members of the society and (613) plots were allotted to them.

iii) The Information in prescribed proforma (19) column were submitted by (587) members and information pertains to about (26) plots were not submitted by the allottees (ANNEXURE-III).

iv) Some (16) plots were allotted to more than one person on different dates through issuing allotment certificates signed by Ex.Managing Committee of the society. (ANNEXURE-I).

v) As per the report, more than (35) plots were allotted during the year 2017. But neither the date of allotment nor date of issue of certificate was mentioned i.e., after 2014 shall be cancelled, as they are highly irregular, doubtful nature and violation of the layout approved by HMDA.

vi) (8) by-numbered plots were created and allotted by issuing allotment certificate by the **Ex Managing** Committee from the year 2011-2017 violating approved layout (ANNEXURE II)

vii) Blank allotments (i.e., in allotment certificate neither the date of allotment nor date of issue of certificate was mentioned) given to (8) members with admission number 602, 678, 734, 931, 946, 948, 952, 953. (ANNEXURE-IV).

viii) The society has not submitted the list of cancellations and re allotments of the plots.

Though the Joint Registrar/DCO had knowledge about the aforesaid report of the Commissioner for Cooperation, dated 18.04.2019, he passed the impugned proceedings dated 18.06.2019, extending the term of PIC consisting of previous Managing Committee, which goes to show that he is acting hand in glove with them.

17. Since there are serious allegations against the respondent Housing Society, the Commissioner of Cooperatives had conducted enquiry into the affairs of the Managing Committee of Housing Society and submitted report on 18.04.2019 vide Rc.No.10192/2017-HR2184 to the to the Principal Secretary, Revenue (AssnII) Department with regard to the irregularities and fraud committed by the Managing Committee members of the Housing Society and also requested the Government to take

necessary action for resumption of the land, which is allotted after 2014, which supports the allegations made by the petitioners.

18. The other allegation is that pending action against the report of the Commissioner for Cooperation dated 18.04.2019, the Joint Registrar/DCO is trying to approve the list of voters submitted by the person Incharge of the respondent Housing Society. A perusal of the counter affidavit is filed by the 3rd respondent Joint Registrar in WP No.12256 of 2019, there is no whisper about the proceedings of the Commissioner of Cooperation dated 18.04.2019, which goes to show that Joint Registrar/DCO suppressed about that proceeding. Even the learned Government Pleader for Cooperation also could not dispute with regard to submission of report by the Commissioner of Cooperation to the Principal Secretary Revenue (Assn.II), dated 18.04.2019. Though this Court passed interim orders on 29.08.2019 in IA No.1 of 2019 in WP No.18629 of 2019 staying of all proceedings, including elections, still the Joint Registrar, approved the election proposal submitted by the respondent Housing Society, without reference to the proceedings of the Commissioner dated 18.04.2019. In spite of serious allegations contained in the report dated 18.04.2019 against the erstwhile Managing Committee of the respondent Housing Society, extended the term of non-official person Incharge beyond 18.04.2019, which goes to show that the Joint Registrar is deliberately bypassing the said report.

19. That apart, pending these writ petitions and having knowledge that there is stay of all further proceedings including elections, the 3rd respondent issued proceedings dated 29.08.2019 approving the proposals of the respondent housing society in conducting elections, which is challenged in WP No.19729 of 2019, wherein this Court passed interim order on 12.09.2019, suspending the said proceedings and also granted stay of all further proceedings.

20. In view of above facts and circumstances, this Court is of the considered opinion that the present term of PIC consisting of previous Managing Committee cannot be extended and it is in the interest of society that the Commissioner for Cooperation to take steps for appointment of new Official Person Incharge other than the present Joint Registrar/District Cooperative Officer, who issued impugned proceedings dated 18.06.2019 and 29.08.2019 and for conducting elections to the respondent Housing, after redressing the grievances of the petitioners and other members of the society, in accordance with law.

Accordingly, writ petitions are disposed of directing the Commissioner for Co-operation to take steps for conducting of elections to the Housing Society either by himself or by appointing official PIC other than the Joint Registrar/DCO, within a period of two months, from the date of receipt of a copy of this order, for redressing the grievance of the writ petitioners, in accordance with law.

There shall be no order as to costs. As a sequel thereto, miscellaneous petitions, if any, shall stands closed.

A.RAJASHEKER REDDY, J

27-09-2019

Note: Issue cc in two days.

B/o.kvs



HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.18629, 12256 & 7622 of 2019



Date 27.09.2019.

kvs