

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION No.16734 of 2019

ORDER:

This Writ Petition is filed for the following substantive relief:

“... to issue a writ, order or direction more particularly one in the nature of Writ of *Mandamus* declaring the action of the respondents in not invoking the statutory provisions under section-32(7)(a) of TCS Act, 1964, by appointing PIC committee, as the case may be, when there is no governing body existing managing committee in the 6th respondent bank as the managing ceased to hold office u/s 32 (1)(a) of TCS Act long back as illegal, unconstitutional, arbitrary, abuse of process of law and consequently direct the respondents 1 to 5 to appoint a PIC committee under Section 32 (7)(a) of TCS Act, 1964, by call a special general body meeting of shareholders and pass resolution for payment of such dividends to the shareholders according to rules and pass appropriate order or orders as this Hon'ble Court deems fit and proper in the circumstances of the case.”

02. Heard the learned counsel for the petitioners and the learned Asst. Government Pleader for Cooperation for the official respondents. Today, at the hearing, learned counsel for the respondents produced before this Court a photocopy of the notice, dated 09-8-2019, issued by respondent No.6-bank to the effect that its general body meeting will be held on 25-8-2019.

03. It is also brought to the notice of this Court that earlier, Writ Petition No.1143 of 2019 was filed against the respondents in connection with the similar issue involved in

this Writ Petition and in the order, dated 03.6.2019, passed by this Court in I.A.No.3 of 2019 in Writ Petition No.1143 of 2019, this Court specifically observed that counter-affidavit was filed stating that two General Body meetings of respondent No.6-bank have been conducted and as such the Managing Committee exists and that no reply-affidavit is filed by the petitioners disputing the said fact.

04. In this case also counter affidavit is filed by 4th respondent on his behalf and also on behalf of respondents 1, 2 and 3 wherein *inter alia* it is stated that in compliance of the provisions of the Telangana Co-operative Societies Act, (for short, 'the Act') the managing committee of the 6th respondent has convened the meetings of the general body twice every year, but as the requisite quorum was not present in the general body meetings, no resolutions were passed. That the 6th respondent-bank has convened general body meetings as per Section 32(1) of the Act and therefore cessation of the managing committee does not arise. That the 4th respondent convened the general body meeting under Section 32 (5) (a) of the Act for facilitating the amendments to bye-laws of the 6th respondent-bank to be carried out with the approval of the general body so as to ensure that the bye-laws fall in line with the amended provisions of the Act, but the petitioners are misrepresenting the Court by canvassing that the managing committee of the 6th respondent bank is ceased

to exist. It is also stated that in similar facts situations in WP no.1143 of 2019, this Court passed which reads as follows:-

“This Court passed interim order on 28-01-2019 basing on the contention of the petitioner that if two general body (sic) meetings of the managing committee are not held in a year, the members of the committee automatically cease to be members; and that when there is no committee functioning as on today, question of moving ‘no confidence motion’ against Vice-Chairman does not arise.

Counter is filed by the 4th respondent stating that, meetings were held, but, the respondents suppressing the fact of holding of meetings obtained the interim order.

Learned Government Pleader for Co-operation submits that even if the contention of the petitioner is accepted that meetings were not held, the petitioner ceases to be Vice Chairman. He also submits that when it is specially stated in the counter affidavit that meetings have been held as per Rules, no reply affidavit is filed disputing the same. There is no representation for the petitioner.

In view of the above facts and circumstances, interim order granted on 28-01-2019 is vacated.”

05. It is also pertinent to note that in this Writ Petition in the counter affidavit it has been specifically stated that two general body meetings were held as per Section 32 (1) of the Act and cessation of the managing committee does not arise. It is to be seen that as per Section 45 (3) (d) of the Act, the 6th respondent-bank is under obligation to pay the dividend to its members in every co-operative year out of the profits as

prescribed. In the counter affidavit, it is categorically stated that as per Section 30 (2) of the Act, the general body has to consider the disposal of the net profits, but as the 6th respondent-bank expressed their inability to pay the dividend to their shareholders for the last two years in-spite of earning profits, due to non assembling of quorum, the 1st responder after careful examination of the request from the Chairman of the 6th respondent- bank, with the concurrence of the Law Department, vide Memo.No.6714/Coop-1/A2/2017-18, dated 22-07-2019 permitted the 6th respondent bank to pay the dividend to the shareholders for the last two years and permitted the managing committee to take a decision in that behalf.

06. It is to be seen that no reply affidavit is filed refuting the averments made in the counter affidavit filed by the 4th respondent. Learned counsel for the petitioners is also bent upon for disposal of the writ petition today itself. The counter averments are reiterated by the learned Asst. Government Pleader for Cooperation. The writ petition being devoid of merits is liable to be dismissed and it is accordingly dismissed. As a sequel, Miscellaneous Petitions, if any, pending shall stand dismissed. No order as to costs.

A.RAJASHEKER REDDY, J

19th August, 2019
Nrg/Dr