

HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No.19003 of 2019

ORDER:

This writ petition is filed challenging the impugned proceedings No.2598/E2/2019, dated 22.08.2019, issued by respondent No.2 appointing Person-in-Charge to the petitioner's Society, as illegal and arbitrary and contrary to the provisions of the Telangana Cooperative Societies Act, 1964 (for brevity "the Act").

The facts, in brief, leading to passing of the impugned order dt.22.08.2019 are that the deponent of the affidavit Sri Pallikonda Sailu, who was the President of the petitioner's Society, viz., District Fishermen Cooperative Society, Nizamabad District, had submitted his resignation to the post of President on 15.07.2019 to respondent No.3 – District Fisheries Officer, Nizamabad District. On receipt of such resignation, considering that after resignation of the President, there are only six Directors and as there being no cooption of other Directors, finding that there is no quorum, respondent No.3 had forwarded the said resignation of the petitioner to respondent No.2 - Commissioner of Fisheries. Thereafter, on 17.08.2019, the said P. Sailu had submitted a letter to respondent No.2 – Commissioner stating that he is withdrawing his resignation submitted on 15.07.2019.

However, basing on the report sent by respondent No.3 on 13.08.2019, vide impugned proceedings dt.22.08.2019, respondent No.2 has appointed the Person-Incharge to manage the affairs of the petitioner's Society for a period of six months, by invoking Section 32(7)(a)(i) of the Act. Challenging the said proceedings dt.22.08.2019, the petitioner has filed the present writ petition.

Counter affidavit is filed by respondent No.3 on his behalf and also on behalf of respondent Nos.1 and 2. Likewise, respondent No.4 also filed counter affidavit.

In the counter affidavit filed by respondent No.3, there is no specific denial by respondent No.3 that the resignation submitted by the deponent as President of the petitioner's Society came to be withdrawn on 17.08.2019 i.e., before acceptance of his resignation by respondent No.2 – Commissioner.

In this regard, Rule 23-AAA(5) of the Telangana Cooperative Societies Rules, 1964, to the extent relevant, is extracted below :

“(5) In the event of resignation of the entire Managing Committee or a majority of the Managing Committee, the Registrar of Cooperative Societies shall hold elections and till the new Managing Committee takes charge the Registrar may appoint Person Incharge or direct the Managing Committee to continue to discharge their functions till the elections are held and the new Managing Committee takes charge.”

A reading of the above rule provides for acceptance of resignation to the post of President by the Registrar of Cooperative Societies.

In the instant case, vide impugned proceedings dt.22.08.2019, respondent No.2 – Commissioner, who is officiating as Registrar of Cooperative Societies, had appointed Person-Incharge to the petitioner's Society by accepting the resignation submitted by the deponent - Mr. P. Sailu.

It may be noted that there is no dispute that even before issuing impugned proceedings dt.22.08.2019, Mr. P. Sailu had withdrawn his resignation letter on 17.08.2019, thereby there is no resignation letter available with respondent No.2 – Commissioner/Registrar so as to accept the same on the date of issuing the impugned proceedings on 22.08.2019. In the absence of any specific denial that the withdrawal of resignation by the deponent to the post of President of the petitioner's Society was on 17.08.2019 and there being no resignation letter available by the date of issuing the impugned proceedings on 22.08.2019 for acceptance by the Commissioner/Registrar, the provisions of Sub-rules (4) and (5) of Rule 23-AAA of the Rules cannot be made applicable.

In that view of the matter, impugned proceedings dt.22.08.2019 issued by respondent No.2 appointing Person

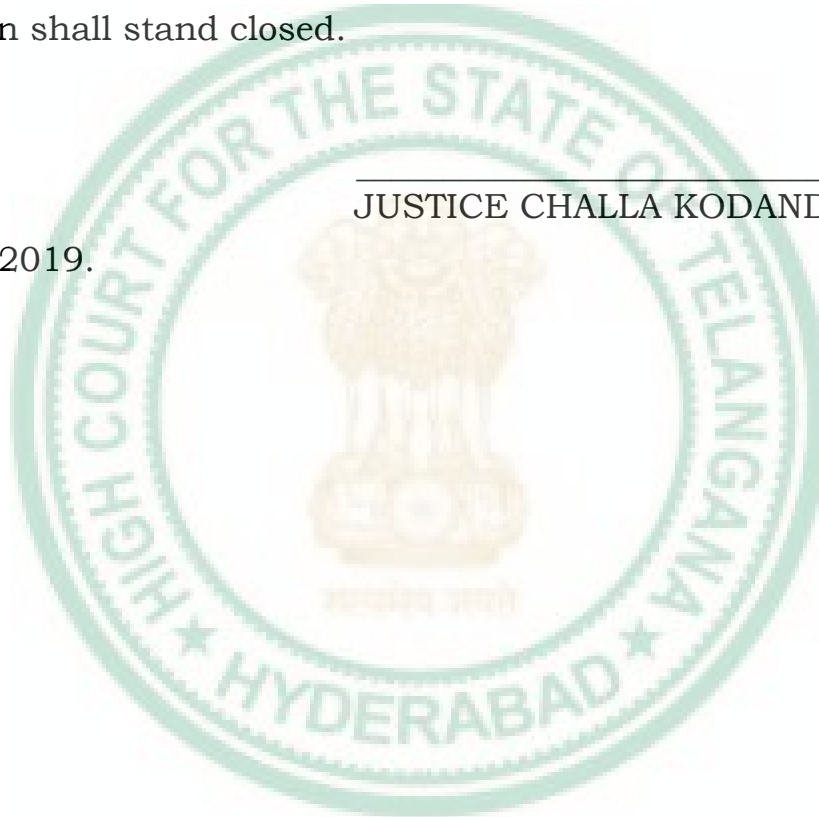
Incharge to the petitioner's Society is unsustainable under law and the same is liable to be set aside.

Accordingly, this writ petition is allowed setting aside the impugned proceedings dt.22.08.2019 issued by respondent No.2 appointing Person Incharge to the petitioner's Society. No order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

JUSTICE CHALLA KODANDA RAM

20.09.2019.
Msr



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