

HIGH COURT FOR THE STATE OF TELANGANA

THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN

AND

THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Writ Appeal No.918 of 2019

Date:18.12.2019

Between:

The State of Telangana,
Rep.by its Principal Secretary,
Co-operation Department,
Secretariat Building, Hyderabad,
Telangana and others

..Appellants

And

K.Soma Shekhar Rao

...Respondent

Standing Counsel for the appellants : Mr. S. Sharath Kumar,
Spl.Government Pleader

Counsel for the respondent : Mr. R.N.Hemendranath Reddy

The Court made the following:

JUDGMENT: (Per the Hon'ble Sri Justice A.Abhishek Reddy)

The present writ appeal is filed by the respondents in Writ Petition No.22903 of 2018 aggrieved by the order, dated 28.11.2019, passed in I.A.No.1 of 2018 whereby the learned Single Judge has suspended the proceedings impugned in the Writ Petition to the extent of appointing appellant No.4/respondent No.4 as Chairman, and appellant Nos.5 and 6/respondent Nos.5 and 6 as Members of Person In-charge Committee (PIC) of Primary Agricultural Cooperative Credit Society Limited, Ethonda, Kotagiri Mandal, Nizambad District (for short 'Ethonda PACS').

2. The parties are hereinafter referred to as they are arrayed in the writ petition before the learned Single Judge.

3. The brief facts of the case are that the sole petitioner has filed the writ petition questioning the action of the official respondents in issuing the proceedings in Rc.No.142/2018-C, dated 15.06.2018, and consequently direct the official respondents Nos.1 to 3 to appoint the outgoing/erstwhile Managing Committee headed by the petitioner as PIC Committee of Ethonda PACS Ltd., Kotagir Mandal, Nizamabad District, in terms of G.O.Ms.No.12, Agriculture & Cooperation (Coop.II) Department, dated 31.01.2018, pending disposal of the writ petition. The petitioner claims to have been elected as the President of Ethonda PACS for a term of five years. The said term ended on 30.01.2018. Even though, the elections are supposed to be conducted for every five years, the Government

did not do so. Instead, the Government issued G.O.Ms.No.12, dated.31.01.2018, stating that the Cabinet Sub-Committee, in its meeting held on 31.01.2018, discussed the matter in detail. It felt that it is not possible to conduct elections to PACSs/DCCBs/CDMSs/TSCAB at this stage. Therefore, the first respondent exercising its power under Section 131 of The Telangana Cooperative Societies Act (for short, 'TCS Act') had directed the Registrar not to conduct elections, but instead to order for appointment of persons-in-charge committees (PICs) under Section 32(7)(a) of the TCS Act to all PACSs/DCCBs/DCMs/TSCAB. Pursuant to the said direction, the third respondent had issued the impugned proceedings appointing some officials as PIC Chairman and PIC Member of the society, to manage the affairs of PACS Ltd., Ethonda, vide proceedings Rc.No.142/2018-C, dated 08.02.2018. Questioning the same, the petitioner has filed W.P.No.4742 of 2018 before this Court. By order, dated 21.02.2018, this Court had suspended the order, dated 08.02.2018. The said writ petition is still pending adjudication.

4. Thereafter, the third respondent vide order, dated 14.02.2018, withdrew the earlier proceedings, which were the subject matter of W.P.No.4742 of 2018, and appointed two other officials as the PIC Chairman and PIC Member of the Society to manage its affairs. Questioning the same, the petitioner has again filed another writ petition No.7378 of 2018. This Court, vide order, dated 13.03.2018, was pleased to pass interim direction directing that the two persons-in-charge shall work with

the outgoing committee, and evolve an arrangement, for smooth functioning of the Society, till the disposal of the writ petition.

5. Aggrieved by the said order, dated 13.03.2018, the official respondents preferred a Writ Appeal before this Court, namely W.A.No.564 of 2018. Vide judgment, dated 04.04.2018, a Division Bench of this Court while suspending orders issued by the third respondent in Rc.No.142/2018-C, dated 24.02.2018, has further directed that the petitioner shall manage the affairs of the Society as a person-in-charge, and also ordered the official respondent to put the petitioner on notice in-regard to the alleged irregularities, and to grant the petitioner a reasonable opportunity of being heard, and thereafter to pass a reasoned order in accordance with law.

6. Hence, the third respondent vide proceedings, dated 19.04.2018, issued show cause notice to the petitioner calling for an explanation on the various irregularities and lacunas at his behest. Questioning the same, petitioner filed another writ petition, namely W.P.No.16775 of 2018. The same was disposed of by this Court on 02.05.2018 directing the petitioner to submit his explanation within three weeks. Accordingly, the petitioner submitted his explanation on 21.05.2018 explaining each and every charge made against him. But, without considering his explanation and without granting any hearing, the official respondents have passed the order, dated 15.06.2018, impugned in the Writ Petition. The learned Single Judge while dealing with various contentions raised by the parties, has

passed the order in I.A.No.1 of 2018 in W.P.No.22903 of 2018, dated 28.11.2019, suspending the impugned proceedings to the extent of appointing respondent No.4 as Chairman and respondent Nos.5 and 6 as Members of PIC of Ethonda PACS. Aggrieved by the order, dated 28.11.2019, passed in I.A.No.1 of 2018 in W.P.No.22903 of 2018, the present writ appeal is filed by the official respondents.

7. Heard Sri S. Sharath Kumar, the Special Government Pleader, appearing for the appellants, and Sri R. N. Hemendranath Reddy, the learned Counsel appearing for the respondent.

8. Sri S. Sharath Kumar submits that without considering the fact that the allegations levelled against the respondent-writ petitioner are serious in nature and without affording an opportunity to the appellants-official respondents to file their counter in the writ petition, the learned Single Judge has suspended the impugned proceedings after a lapse of seventeen months; that the term of the respondent had expired long back, and he has no vested right to hold-on to the said post even after a lapse of twenty-one months. The learned Single Judge had misconstrued the purport and object of G.O.Ms.No.12, dated 31.01.2018, which only enables the official respondents to appoint managing committees who are not facing serious irregularities and gross misconduct.

9. Per contra, Mr. R. N. Hemendranath Reddy has vehemently argued that the respondent No.6 in the writ petition, who

happens to be the local MLA and in-charge District Minister, is behind the passing of the impugned proceedings, which are assailed by the petitioner in various writ petitions only on the ground that the petitioner has not joined the party to which he (R.6 in the Writ Petition) belongs to. And keeping that in mind, he has been pressurising the official respondents to pass various orders without there being any legal basis.

10. Having heard the arguments of both the counsels, and having perused the entire material on record, including the order of the learned Single Judge, we do not find any merit in the writ appeal for the following reasons:-

It is to be seen that the order of the learned Single Judge is in an interlocutory application and not in the main writ petition. Learned Special Government Pleader appearing for the appellants has fairly conceded that till date no counter has been filed in the writ petition by the official respondents. The learned Single Judge, after noting that several opportunities have been given to the official respondents to file their counter, has passed the impugned order in an Interlocutory Application. In the absence of any counter, the learned Single Judge was constrained to pass the orders in the interlocutory application filed by the petitioner along with the writ petition. If the appellants are so aggrieved by the order in the interlocutory application, they can file a vacate stay petition along with their counter, and see that the orders are passed on merits of the case, or get the stay vacated in their favour. This Court will be in a disadvantageous position in deciding the case on merits in

the absence of any counter by any of the respondents. Therefore, we direct the appellants-official respondents to file their counter in the writ petition and if they are so advised, file a petition to get the stay order passed in I.A.No.1 of 2018 vacated, and request the learned Single Judge to hear the matter at an early date.

11. In view of the above, the Writ Appeal is dismissed.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, HCJ

A.ABHISHEK REDDY, J

18th December, 2019
smr

