

THE HONOURABLE SRI JUSTICE K.LAKSHMAN

WRIT PETITION Nos.5913 AND 5969 OF 2020

COMMON ORDER:

Since both these Writ Petitions arise out of the same impugned order and the respondents are also same in all these Writ Petitions, they are heard together and being disposed of by this Common Order.

2. Challenging the proceedings dated 15.06.2015 issued by the 4th respondent and also the proceedings dated 21.11.2019 issued by the 3rd respondent directing the petitioners to pay an amount of Rs.1,38,69,550/- and 1,48,87,050/-, respectively, these Writ Petitions are filed.

3. Learned counsel for the petitioners would contend that both the said impugned proceedings are not in accordance with the provisions of Section 60 of the Telangana Co-operative Societies Act, 1964 (for short, the Act) and the ingredients of Section 60 (1) of the Act are lacking in the present proceedings dated 21.11.2019. According to him, respondent Nos.3 and 4 did not follow the procedure laid under the Act and there is violation of principles of natural justice. Therefore, he prayed to set aside the impugned proceedings.

4. On a perusal of the impugned proceedings issued by the respondents, it appears that an enquiry under Section 51 of the Act was ordered into the irregularities in the disbursement of loans to seven primary Agricultural Co-operative Societies by Devarakonda

Branch of Nalgonda D.C.C.B. Limited, during 2010-13. On completion of enquiry, a report was submitted. Review Petitions were filed to review the said report/findings of the enquiry officer. The said applications were dismissed. Thereafter, the 3rd respondent has conducted an enquiry under Section 60 of the Act after giving an opportunity to the petitioners to adduce evidence, to cross examine the witnesses and to submit their written submissions. Therefore, *prima facie*, it appears that the petitioners have availed the said opportunity. From the impugned proceedings dated 21.11.2019, it is further clear that the 3rd respondent has considered the entire material on record including depositions etc. and passed a reasoned order dated 21.11.2019 stating that the records of banks and the depositions of the members given before the Enquiry Officer proved beyond reasonable doubt that there is misappropriation of funds of Primary Agricultural Cooperative Societies (PACS) of Chitriyala and Devarakonda and found that the petitioners, who are the Presidents of the Societies concerned, are responsible for such misappropriation.

5. It is settled preposition of law that the surcharge proceedings under Section 60 of the Act are akin to civil proceedings. As discussed supra, the surcharge authority has followed the procedure by giving opportunity to the parties. Therefore, according to this Court, there is no violation of the principles of natural justice and the petitioners failed to establish that the 3rd respondent is not having any jurisdiction to issue impugned proceedings that is under challenge in the Writ Petitions.

6. Section 76 of the Act deals with Appeals. As per the said provision, any person or society aggrieved by any decision passed or order made under Sections 6, 9A, 9B, 9C, 12A, 13, 16, 17, 19, 21, 21-A, 21AA, 23, 32 (3), 34, 34A, 60, 62, 64, 66, 70, 71, 73 and Section 117 may appeal to the Tribunal.

7. In the present cases, the challenge to the Surcharge orders under Sections 60 and 51 of the Act which are appealable. As discussed supra, the petitioners failed to make out any ground to maintain the Writ Petitions in view of the alternative and efficacious remedy of appeal under Section 76 of the Act.

8. In view of the same, this Court is of the considered view that the petitioners failed to establish any ground so as to interfere with the present impugned orders.

9. Therefore, both the Writ Petitions are dismissed. However, the petitioners are given liberty to avail alternative remedy of appeal under Section 76 of the Act. It is made clear that this Court has not expressed any opinion on the merits of the case. The Tribunal shall dispose of the appeals to be filed by the petitioners under Section 76 of the Act strictly in accordance with law. Miscellaneous petitions, if any pending, shall stand disposed of. There shall be no order as to costs.

K.LAKSHMAN, J

Date: 20.04.2020
TJMR