

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION No. 17685 of 2019

ORDER:

In this Writ Petition, petitioner challenges the action of the second respondent – Deputy Registrar of Cooperative Societies/District Cooperative Officer, Peddapally District, in issuing proceedings dated 05.08.2019 continuing the fourth respondent as Person-In-Charge/Chairman of the third respondent – Primary Agricultural Cooperative Society Limited, Srirampur, Peddapally.

The brief facts of the case are that pursuant to the elections held in 2013, the petitioner along with 12 others was constituted as Managing Committee of the third respondent society under the Chairmanship of Sri V. Thirupathi Reddy. The term of Office expired on 03.02.2018. By proceedings dated 05.02.2018, the term of Office of the third respondent society was extended in terms of G.O.Ms.No.12, Agriculture and Cooperation (Coop.II) Department dated 31.01.2018, which provides for appointment of elected members of the existing Managing Committee as committee of Person-In-Charge for a period of six months or till fresh elections are conducted therefor, whichever is earlier. No elections have been conducted to the third respondent society.

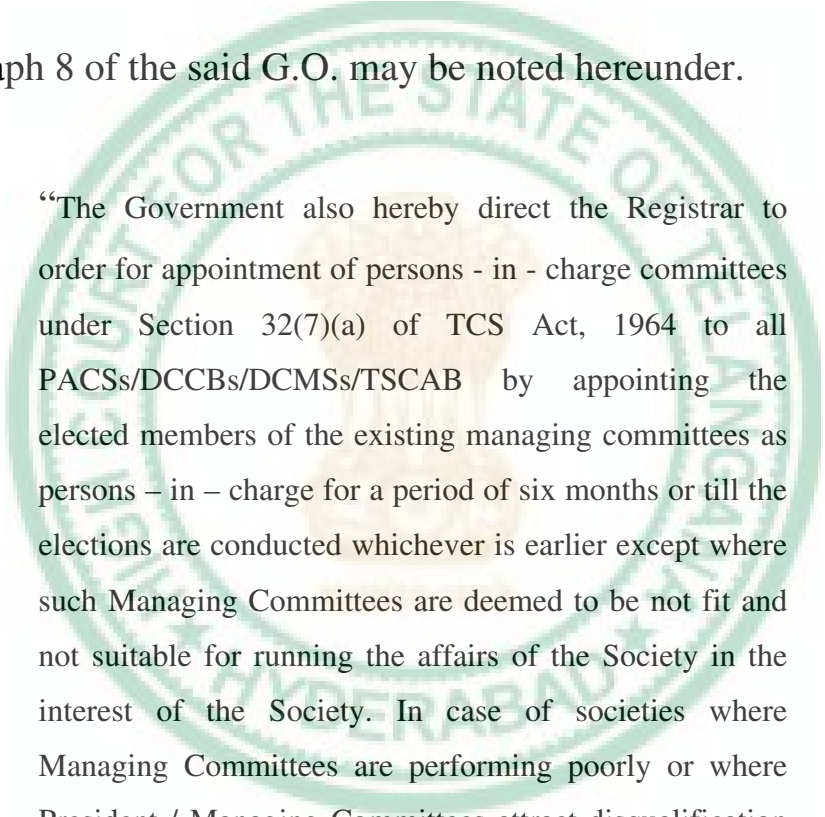
Therefore, in terms of the said G.O.Ms.No.12, the Person-In-Charge Committee would be the members of existing Managing Committee, the term of which was extended vide proceedings dated 05.02.2018. The Chairman of the Managing Committee, Sri V. Tirupathi Reddy, resigned to his post on 18.06.2019. Thereafter, through the impugned proceedings, the fourth respondent was appointed as Person-In-Charge/Chairman of the third respondent society. The grievance of the petitioner is that he being the Vice-Chairman of the erstwhile Managing Committee, at best, he ought to have been appointed as Chairman of the third respondent society, but not the fourth respondent, who is only a Member.

In the counter-affidavit filed by the fourth respondent, it was stated that consequent upon expiry of the term of the elected Managing Committee, the Committee of Person-In-Charge was appointed in terms of G.O.Ms.No.12; that there is no post of Vice-Chairman in the third respondent society and that the present Managing Committee shall function as a Committee of Person-In-Charge to manage the affairs of the third respondent society.

Learned counsel for the fourth respondent supports the impugned proceedings by stating that it is for the second

respondent to appoint one of the Members of the erstwhile Managing Committee as Chairman so as to ensure smooth administration of the third respondent society.

Now, the issue that is required to be considered is, whether appointment of the fourth respondent as Person-In-Charge/Chairman of the third respondent society is in terms of G.O.Ms.No.12 dated 31.01.2018 or not. In this context, paragraph 8 of the said G.O. may be noted hereunder.



“The Government also hereby direct the Registrar to order for appointment of persons - in - charge committees under Section 32(7)(a) of TCS Act, 1964 to all PACSs/DCCBs/DCMSs/TSCAB by appointing the elected members of the existing managing committees as persons – in – charge for a period of six months or till the elections are conducted whichever is earlier except where such Managing Committees are deemed to be not fit and not suitable for running the affairs of the Society in the interest of the Society. In case of societies where Managing Committees are performing poorly or where President / Managing Committees attract disqualification at any level under the provisions of the TCS Act, 1964 / Rules, the Registrar is directed to appoint person or persons to manage the affairs of such societies under Section 32(7)(a) of the Act. The person(s) – in –charge appointed will discharge all the functions of the committee and perform all such activities in the interest of the society as specified in the provisions of the said Act, Rules and bye laws made under.”

From the above quoted portion, it is evident that the aforesaid G.O. does not by itself give any authority to the second respondent to appoint any Member of the erstwhile society as Chairman of Person-In-Charge Committee of the society.

It is to be noted that in terms of G.O.Ms.No.12, the elected Members of the society shall function as Person-In-Charge Committee. That being the position, the second respondent has neither authority nor power to appoint any Member of the society as its Chairman, as the same is not envisaged in G.O.Ms.No.12, as such, he cannot function as Chairman of Person-In-Charge Committee of the third respondent society. Therefore, the proceedings impugned appointing the fourth respondent as Chairman of Person-In-Charge Committee of the third respondent society are not in order and contrary to G.O.Ms.No.12.

Accordingly, this Writ Petition is allowed setting aside the proceedings dated 05.08.2019 issued by the second respondent.

Miscellaneous Petitions, if any pending, shall stand disposed of. There shall be no order as to costs.

CHALLA KODANDA RAM, J

2nd JANUARY, 2020.

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