

THE HON'BLE SRI JUSTICE CHALLA KODANDA RAM

WRIT PETITION Nos. 38136 of 2018 and 29168 of 2019

COMMON ORDER:

W.P. No. 38136 of 2018 is filed challenging the order dated 12.10.2018 passed by the Cooperative Tribunal at Hyderabad, in O.P.No.8 of 2015, setting aside the election of petitioners 1 to 4 and another as Managing Committee of the fifth respondent – Laldarwaza Toddy Tappers Cooperative Society, Hyderabad (for short 'the society').

W.P. No. 29168 of 2019 is filed for the following relief:

“to issue a Writ of Mandamus or any other appropriate Writ Order or Orders Direction or Directions to direct the respondents 2 to 5 to act in accordance with law and not to proceed in any manner for holding elections to the 6th respondent society without verifying the validity of removal of 285 names from the list of members of the society which was found to have been done illegally as per the order in O P No 8 of 2015 dated 12 10 2018 by the Cooperative Tribunal, Hyderabad.”

Learned counsel for the petitioners, three in number, in Writ Petition No. 29168 of 2019, who are respondent Nos.9, 10 and 8 respectively in Writ Petition No. 38136 of 2018, asserts that a *de novo* enquiry is required to be conducted before proceeding with the conduct of elections to the society and that

Rule 22-B of the Telangana Co-operative Societies Rules, 1964 (for short 'the Rules'), would apply to the case on hand but not Rule 22 of the Rules.

Learned counsel appearing for the petitioners in Writ Petition No. 38136 of 2018 asserts that between 2004 and 2014, on account of ineligibility, certain members of the society came to be removed and final voters list was furnished to the Election Officer in 2014 and based on the same, the elections were conducted. The learned counsel also asserts that the term of the elected members expired on 21.12.2019, as such, nothing remains to be considered in Writ Petition No. 38136 of 2018.

On 24.10.2018, in Writ Petition No.38136 of 2018, this Court granted interim suspension of the order impugned for a period of six (6) weeks and the said order was extended from time to time.

A perusal of the order dated 12.10.2018 passed by the Tribunal in O.P.No.8 of 2015 discloses that the Tribunal while dealing with the points for determination, particularly, point No.3, had categorically found that the respondents therein had failed to produce any material in support of removal of 285 members out of 387 members.

The main dispute in these Writ Petitions relates to the preparation of voters list of the society. Admittedly, the term of the elected members expired as on date. In a way, the cause in Writ Petition No. 38136 of 2018 had become infructuous. However, this Court is required to consider the question as to whether the finding recorded by the Tribunal with regard to removal of certain members from the society is correct or not.

It is to be noted that though respondent Nos. 5 to 8 and 10 in O.P.No.8 of 2015 filed Writ Petition No. 38136 of 2018 challenging the order dated 12.10.2018 in the said O.P., they did not produce any substantive material before this Court to disturb the said finding recorded by the Tribunal. However, the pleadings in Writ Petition No. 38136 of 2018 do not address the said issue, as rightly contended by the learned counsel appearing for the petitioners in Writ Petition No. 29168 of 2019.

It is to be noted further that elections are required to be conducted in terms of Rules 22 and 22-B of the Rules, as amended in G.O.Ms.No.1, Agricultural and Cooperation (Cooperation. II) Department, dated 04.01.2018. In terms of sub-rule (6) of Rule 22 of the Rules, voters list is required to be prepared. The procedure as contemplated for preparation of and publication of voters list is clearly delineated in Rule 22 of the

Rules. Rule 22-B of the Rules would apply only to the society having a small number of eligible voters i.e., less than 50.

There is no dispute that the subject society was consisting of more than 100 Members and the elections came to be conducted in 2014. In the circumstances, the argument of the learned counsel for the petitioners in Writ Petition No. 29168 of 2019 is rejected holding that the procedure as contemplated under Rule 22 of the Rules is required to be followed strictly before proceeding with the elections to the society. The apprehension expressed by the learned counsel that the authorities would not follow the procedure prescribed has no basis. In this context, the specific provision i.e. Section 31-B brought in by way of amendment - Andhra Pradesh Cooperative Societies Act, 1964 (Telangana Adaptation) Order, 2016, may be noted:

“31-B (a) Notwithstanding anything contained in this Act, Rules and Bye-laws of the society, the Government shall constitute a State Cooperative Election Authority;

The State Cooperative Election Authority shall be headed by an officer not below the rank of Additional Registrar of Cooperative Societies. The said Authority is to be assisted by not more than two Additional Co-operative Electoral Officers who are not below the rank of Joint Registrar of Co-operative Societies. The service conditions of the State Cooperative Election Authority and the Additional Cooperative Electoral Officers shall be as prescribed.

(b) The Superintendence, direction and control of the preparation of electoral rolls and conduct of all elections shall

vest with the State Cooperative Election Authority which shall conduct all elections in the manner prescribed, for all types of Cooperative Societies registered under this Act;

Provided that the State Co-operative Election Authority referred to under sub-section (a) above may issue guidelines otherwise laying down the procedure for conduct of elections from time to time.

(c) The Registrar of Cooperative Societies shall deploy the supporting staff to the State Cooperative Election Authority as may be prescribed to assist in conduct of Elections.

(d) Provided that the election of a Board shall be conducted before expiry of the term of the Board so as to ensure that the newly elected members of the Board assume office immediately on the expiry of the office of the outgoing Board.”

As a matter of fact, *vide* letter dated 30.11.2019, the State Cooperative Election Authority, Telangana State, Hyderabad, requested the District Prohibition and Excise Officer, Hyderabad, to send proposals for conduct of elections to the society duly following the procedure prescribed in Rule 22 of the Rules.

Though the learned counsel for the petitioners in Writ Petition No. 29168 of 2019 apprehend that the authorities would not follow the procedure prescribed in Rule 22 of the Rules, there is no basis for the same.

Hence, both the Writ Petitions are disposed of with the direction to the authorities concerned to follow Rule 22 of the Rules in preparation of the voters list before proceeding with the

elections to the society. It is needless to mention that before dealing with the aspect with regard to the admission/deletion of its members, the society is required to adhere to Rule 22 of the Rules, which mandates publication of members list prior to the same being submitted to the Registrar for forwarding it to the Election Officer, by calling for objections from such members.

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

7th JANUARY, 2020.

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CHALLA KODANDA RAM, J

