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Whether only operative part
of the judgment is pronounced
or whether full judgment is
pronounced : FULL.

APHC010417312024 **IN THE HIGH COURT OF ANDHRA PRADESH** [3584]
AT AMARAVATI

WRIT APPEAL NO: 849 of 2024

I. Seetharamaswamy ...Appellant

Vs.

The State of Andhra Pradesh and others ...Respondent(s)

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CORAM : THE CHIEF JUSTICE LISA GILL
SRI JUSTICE CHALLA GUNARANJAN

DATE : 11th November 2026

Present:

Advocate for Appellant: MR. S. APPADHARA REDDY

Advocate(s) for Respondent(s): Mr.KIRTI TEJA KONDAVEETI,
SPL.G.P. ATTACHED TO THE
OFFICE OF Ld. ADDL ADVOCATE
GENERAL; and
MRS.BOBBA VIJAYA LAKSHMI

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JUDGMENT: (per Hon'ble Sri Justice Challa Gunaranjan)

This writ appeal is directed against the order, dated 23.08.2024, in W.P.No.24309 of 2014, whereby learned Single Judge dismissed the writ petition, confirming the order passed by Andhra Pradesh Cooperative Tribunal, Vijayawada (for short, "the Tribunal"), in

O.A.No.40 of 2011, dated 02.06.2014, which upheld the surcharge orders, dated 15.10.2008.

2. **(a)** Appellant-writ petitioner, being Chairman of 3rd respondent Society at relevant point of time, was at the helm of affairs of the Society. Initially, owing to certain financial irregularities pointed out, Joint Registrar/District Cooperative Officer, Eluru, vide proceedings, dated 27.08.2002, ordered statutory inspection under Section 52 of Andhra Pradesh Cooperative Societies Act, 1964, (for short, "the Act"), and appointed Sub-Divisional Cooperative Officer to undertake such exercise. By report, dated 14.02.2003, it was concluded that Secretary and Attender-cum-Salesman had misappropriated and defrauded ₹4,43,745/- and ₹25,125/- respectively, thus, appropriate action was proposed. In pursuance to the same, surcharge proceedings were initiated under Section 60 of the Act against aforesaid persons.

(b) Pending the same, an application was filed to implead appellant herein as party respondent to the said proceedings, as it was found that even appellant was also involved in misappropriation of funds. The said application was allowed vide order, dated 12.05.2005. Questioning the same, W.P. No.14744 of 2005 was preferred. The writ petition was allowed by setting aside impugned order of impleadment, however, liberty was granted to the authorities to conduct any other

inquiry as per law against writ petitioner therein/appellant and proceed with the matter.

(c) Even before passing of aforesaid order, Joint Registrar/District Cooperative Officer, by proceedings, dated 28.11.2005, ordered inquiry under Section 51 of the Act, consequently, the Inquiry Officer submitted a report, dated 07.04.2006, pointing out involvement of appellant in misappropriation of funds, and further fixing responsibility not only on the Secretary and Attender/Salesman, but also on appellant. Consequently, surcharge proceedings were initiated, and by order, dated 15.10.2008, appellant and others were directed to make good the loss suffered by the Society along with interest, failing which recovery was ordered. The said order was challenged in O.A. No.40 of 2011 before the Tribunal, which ended in dismissal, vide order dated 02.06.2014. The same was again unsuccessfully challenged in the writ petition. Hence, present writ appeal.

3. Heard Mr.S.Appadhara Reddy, learned counsel for appellant; and Mr.Kirti Teja Kondaveeti, learned Special Government Pleader attached to the office of learned Additional Advocate General, for respondents 1 and 2.

4. **(a)** Learned counsel for appellant mainly contended that respondents, having once invoked Section 52 of the Act and invited a

report, without concluding surcharge proceedings on the basis of said report, were precluded from ordering yet another inquiry under Section 51 of the Act on the very same set of allegations of financial irregularities. It is further contended that report of Inquiry Officer furnished in pursuance to inspection under Section 52 of the Act since does not indicate involvement of appellant in the alleged financial irregularities, there is no reason for yet again ordering inquiry under Section 51 of the Act to undertake fishing inquiry and probe involvement of appellant to connect him with the very same set of financial irregularities.

(b) Learned counsel, by referring to the order passed by Writ Court in W.P. No.14744 of 2005, which interdicted the impleadment of appellant in surcharge proceedings undertaken in pursuance to proceedings under Section 52 of the Act, submitted that there cannot be repeated inquiries on same set of allegations, and that too when first proceedings went in favour of appellant. Therefore, it is contended that learned Single Judge, without appreciating aforesaid aspects, erroneously dismissed the writ petition.

5. Learned Special Government Pleader attached to the office of learned Additional Advocate General appearing for respondents 1 and 2, while supporting impugned order, contended that there is no bar in

initiating proceedings both under Sections 51 and 52 of the Act, and in fact, inquiry contemplated under Section 51 of the Act has wider scope than Section 52, thus, given the facts and circumstances, when there are serious allegations of irregularities, it is always permissible to resort to Section 51 of the Act, which was rightly so done in the present case. Reliance has been placed on an order passed by a learned Single Judge of Composite High Court of Andhra Pradesh in **L.N.Peta Primary Agrl. Co-op. Society v. Govt. of A.P**[1].

6. We have given our anxious consideration to the submissions made above and perused the record.

7. Facts narrated above are not in dispute. Initially, inspection of records was ordered in terms of Section 52 of the Act in order to ascertain whether there were any financial irregularities concerning the affairs of the 3rd respondent Society during the period concerned. The said inquiry was later discontinued after initiation of surcharge proceedings, and decision was made to invoke Section 51 of the Act, wherein even the role of appellant was probed. At this stage, it is relevant to notice that after submission of report by Inquiry Officer in pursuance to proceedings under Section 52, during the course of surcharge proceedings, application filed for impleading appellant as

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party respondent was allowed, noticing that appellant had active role in pooling funds for remittance of misappropriated amounts, and further, the said amounts were pooled by breaking fixed deposits of family members. In view of the said serious misdeeds leading to financial irregularities, it was decided to initiate inquiry under Section 51 of the Act. When a challenge was laid to order of impleadment, even the Writ Court, while allowing W.P. No.14744 of 2005, has categorically made it clear that respondents were not precluded from conducting any other inquiry as per law and proceed with the matter. As rightly contended by learned Special Government Pleader, absolutely there is no bar in ordering inquiry under Section 51 of the Act after having decided to proceed under Section 52 of the Act or *vice versa*.

8. Section 52 of the Act merely contemplates inspection of books of Society, and whereas Section 51 encompasses inquiry which is much larger in scope than mere inspection of records envisaged under Section 52 of the Act. At times, mere inspection of records would surface irregularities which are apparent on record without much piercing into material allegations to fish out persons involved. However, in an inquiry under Section 51, which is wider in scope, the Inquiry Officer not only will look into the records, but also is empowered to probe into various aspects, particularly in cases involving serious allegations of financial irregularities. Jurisdictionally, powers being exercised under

Sections 51 and 52 would vary. A learned Single Judge of Composite High Court of A.P. had an occasion to examine the scope of Sections 51 and 52 in **L.N.Peta Primary Agrl. Co-op. Society**[1], and held as under:

> "7. An inquiry under Section 51 of the Act can be instituted on an order of a Registrar either *suo motu* or on the application of the society or if a request is made by 1/3rd of the members of the Committee of the society or not less than 1/5th of the total number of members of the society.
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> 8. As noted hereinbefore, the Divisional Cooperative Officer, Srikakulam has requested respondent No.2 in his letter, dated 03.06.2014, that an inspection under Section 52 of the Act is necessary in order to find out whether the loans distributed to 32 persons were based on forged documents. No doubt, respondent No.2 appeared to have felt it fit that an inspection under Section 52 of the Act is necessary. However, subsequently one R.Trinadha Rao (respondent No.7 herein) appeared to have approached Hon'ble Lokayukta which in turn has sensitised the Commissioner for Cooperation and Registrar of Cooperative Societies. Consequent on the said development, respondent No.2 evidently changed his mind and directed institution of an inquiry under Section 51 of the Act instead of ordering an inspection under Section 52 of the Act.
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> 9. While under Section 51 of the Act, an inquiry into the constitution, working and financial condition of the Society can be held, under Section 52 of the Act inspection of books of the Society can be made. Undoubtedly, the scope of Section 51 of the Act is larger than that of Section 52 of the Act. In a case involving serious allegation of sanction of substantial loans to as many as 32 members based on forged documents, an inquiry under Section 51 of the Act is more appropriate than a mere inspection under Section 52 of the Act. Even for an authority to exercise *suo motu* jurisdiction, he needs to gather information from various external agencies. Merely because the Commissioner has requested respondent No.2 to order an inquiry

> under Section 51 following intervention by the Hon'ble Lokayukta, that by itself would not change the nature and complexion of exercise of jurisdiction by respondent No.2. At best, the intervention by the Hon'ble Lokayukta may be an additional factor which would have firmed up the opinion of respondent No.2 that an inquiry under Section 51 is more appropriate than inspection under Section 52 of the Act. After all, the object of an inquiry under Section 51 of the Act is to ensure that misfeasance and malfeasance, if any, indulged in by the persons in the management of the Society are exposed and the loss if any caused on account of such acts are recovered by initiating proceedings under Section 60 of the Act. If a *bona fide* effort is made towards this direction, the same cannot be allowed to be scuttled based on technicalities."

9. We are in absolute agreement with the view expressed above. Merely ordering inspection of records as envisaged under Section 52 of the Act would not take away the right of authorities in invoking Section 51 of the Act in order to probe serious allegations of financial irregularities, thus, in our considered opinion, there is absolutely no jurisdictional error committed by the authorities in invoking Section 51 of the Act.

10. Given the present facts on hand, it is to be noticed that there were serious allegations of misappropriation of funds against appellant, as evident from the application filed under Order I Rule 10 of CPC in earlier surcharge proceedings, for which reason, even in the earlier round of litigation, Writ Court had reserved the right of authorities to initiate any other inquiry as per law and proceed with the matter. The findings

recorded by learned Single Judge, therefore, do not suffer from any infirmity calling for interference in exercise of appellate jurisdiction.

11. Learned counsel for appellant has not pointed out any other infirmity in the order passed by learned Single Judge, *qua* merits of the matter, thus, we are of the view that order under challenge does not call for any interference.

12. Writ appeal is, therefore, devoid of merit and accordingly stands dismissed. No order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

LISA GILL, CJ **CHALLA GUNARANJAN, J**

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