
B. Nagabhushanam and others Vs The Govt. of A.P. and others

Writ Petition No"s. 21120 of 2007

Court: Andhra Pradesh High Court

Date of Decision: March 20, 2012

Acts Referred:

Andhra Pradesh Co-operative Societies Act, 1964 – Section 50, 51, 52

Citation: (2012) 4 ALD 432

Hon'ble Judges: L. Narasimha Reddy, J

Bench: Single Bench

Advocate: K.R. Prabhakar in W.P.No.21120 of 2007, Sri V. Vlakshmi Narayana in W.P.No.16133 of 2008 and Sri S. Niranjana Reddy in W.P.No.7042 of 2012, for the Appellant; G.P. for Cooperation for the Respondents 1 to 5, Sri C.V. Bhaskar Reddy for the Respondent No.6 in W.P.No.21120 of 2007, W.P.No.16133 of 2008 and G.P. for Cooperation in W.P.No.7042 of 2012, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

The Hon'ble Sri Justice L. Narasimha Reddy

1. These three writ petitions are interconnected. Hence, they are disposed of through a common order. For the sake of convenience, the parties

are referred to as arrayed in W.P.No.7042 of 2012. The 1st petitioner is a cooperative house building society functioning at K.P.H.B. Colony,

Hyderabad. Inspection of the records of the society was conducted in the year 2001 and a report was submitted on 23.03.2002. It appears that

representations were made to the higher authorities alleging that though certain irregularities were pointed out in the inspection report, no steps

were taken thereon. The 2nd respondent prepared a note on 08.12.2006. Thereafter, the Government in Agriculture and Cooperation Department

issued proceedings dated 01.06.2007 requiring the 2nd respondent to take further steps on the basis of the report. The 2nd respondent in turn

directed the District Cooperative Officer, 4th respondent herein to take necessary action. Through proceedings dated 17.07.2007, the 4th

respondent issued a show cause notice to the 1st petitioner directing them to explain as to why criminal proceedings be not initiated on the basis of

the findings in the report of inspection.

2. The 1st petitioner filed a review/revision before the 1st respondent, in a way challenging the proceedings dated 01.06.2007 issued by the 1st

respondent and the consequential proceedings issued by respondents 2 and 4. The same was entertained and an order of stay was granted on

26.07.2007. W.P.Nos.21120 of 2007 and 16133 of 2008 are filed challenging the order of stay, dated 26.07.2007 granted by the 1st

respondent.

3. The 1st respondent passed an order, dated 21.03.2011 disposing of the revision and sending it to the 2nd respondent for necessary action in

accordance with the provisions of the A.P. Cooperative Societies Act (for short "the Act") and Rules made thereunder. W.P.No.7042 of 2012 is

filed challenging the said order.

Heard learned counsel for the parties.

The developments that are pointed out in the preceding paragraphs indicate that the proceedings that started u/s 52 of the Act were not permitted

to take their natural course, on account of interference or pressure. The route of the proceedings changed and the result is that utter chaos has

been brought about.

4. Whenever an inspection, audit or enquiry under Sections 50, 51 and 52 respectively of the Act are conducted, the further course of action

would depend upon the view taken by the general body of the society concerned. In rare cases, the Registrar can exercise his powers to initiate

surcharge proceedings, in case the general body of the society remains indifferent. Hardly there exists any scope for interference either by the

Commissioner of Cooperation or the Government.

5. In the instant case, the report of inspection caused u/s 52 of the Act was in fact placed before the general body and certain suggestions were

made. Some of the members, who were not satisfied with that, have approached the higher authorities. The Commissioner prepared a note in the

year 2006 and thereafter the Government intervened and issued proceedings dated 09.05.2007 directing certain action. That in turn was

understood that the prosecution must be ordered against the persons named in the report of the inspection. Since the root cause for the series of

proceedings was the order of Government, dated 09.05.2007, the 1st petitioner thought it fit to seek review of that very order before the 1st

respondent. The review was entertained and order of stay was granted.

6. In case, the Government felt that there are no grounds to review its order dated 09.05.2007, it ought to have sent the matter to the 2nd

respondent i.e., Commissioner without expressing any final view. In effect, the 1st respondent wanted the 2nd respondent to decide the validity of

the proceedings dated 09.05.2007. Hardly there was any application of mind to the matter. Almost every authority wanted the issue to be dealt

with by the other, even while exhibiting that he has acted in accordance with the powers vested in him. The whole exercise was in a bad taste. This

Court feels that all the proceedings commencing with the order dated 09.05.2007 passed by the 1st respondent and culminating in the one dated

21.03.2011 passed by it, must be set aside and the way be made clear for the steps on the basis of the report submitted u/s 51 of the Act to take

their course in accordance with law.

7. W.P.No.7042 of 2012 is allowed and the impugned proceedings are set aside. It is left open to the concerned authorities under the Act and the

Rules made thereunder to take steps vis-a-vis the report dated 23.03.2002 duly issuing notice to the affected parties.

8. W.P.Nos.21120 of 2007 and 16133 of 2008 are dismissed as infructuous. It is also made clear that this order shall not preclude the steps to be

taken vis-a-vis the reports submitted under any other provisions of the Act in respect of the society. The miscellaneous petitions filed in these writ

petitions also stand disposed of. There shall be no order as to costs.