Company : CourtKutchehry
Website : www.courtkutchehry.com
Printed For :
Date : 21/09/2026

(1997) 01 SC CK 0055

In the Supreme Court Of India

Case No : Spl. Leave Petition (C) No. 25281 of 1996

A. Nadamuni and others — APPELLANT

Vs

Prohibition and Excise Commissioner, Nampally, Hyderabad and others — RESPONDENT

Date of Decision : 13-01-1997

Acts Referred:
Andhra Pradesh Co-operative Societies Act, 1964 — Section 19

Citation : AIR 1997 SC 1021 : (1997) AIRSCW 971 : (1997) 1 JT 698 : (1997) 1 SCALE 417 : (1997) 2 SCC 695 : (1997) 1 SCR 226 : (1997) 2 Supreme 114

Hon'ble Judges : K. Ramaswamy, J;G. T. Nanavati, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. This SLP has been filed against the Order of the Division Bench of the Andhra Pradesh, made on December 13, 1996 in Writ Appeal No. 1437/96 confirming the judgment of the learned single Judge, dated December 4, 1996 in Writ Petition No. 11385/96.

2. The only question for our consideration is: Whether the Superintendent of Excise who is also Registrar for certain purposes of Andhra Pradesh Co-operative Societies Act, 1964 (for short, the 'Act') has the power to disqualify an existing member of the Srikalahasthi Toddy Tappers Cooperative Society? The object of the society is to ameliorate the economic conditions of tappers by providing them means of livelihood by tapping the Toddy trees allotted by the Excise authorities. The provisions of the Act, the rules made thereunder and the by-laws of the Society regulate the admission of the members. The toddy tappers Cooperative Society should consist of members who are really and actually in the avocation of tappers and are allotted palmer trees for tapping toddy as their sources of livelihood. On a complaint that non-tapers were admitted and are members of the Society at the behest of a member, a writ petition came to be filed in the High Court. Pursuant to an interim direction given by the High Court to conduct

tapping test, the competent officers conducted the same in that behalf. The authorities came to conclude that the petitioners were not the tappers as they did not fulfil the condition of the tapping experience etc. and accordingly were removed from the membership which decision was confirmed by the High Court in the writ petition as also in appeal.

3. It was contended that the Registrar (Superintendent of Excise) has no power to remove them from membership of Society. The primary contention raised in the High Court as reiterated by Shri L.N. Rao, learned Counsel for the petitioners, is that while power u/s 19, in the matter of admission of the members of the Society, was delegated to the Superintendent of Excise, power u/s 21, namely, disqualification for being a member of the Society etc., was not delegated to him. Therefore, the Superintendent of Excise was without jurisdiction to remove the petitioners from the membership of the Society. We find no force in the contention. It is seen that admission of the members is governed by the provisions, of Section 19 of the Act. Section 21 prescribes disqualification for being a member of the Society. Sub-section (1) postulates that a person shall be disqualified for being admitted as, and for being, a member, in the circumstances enumerated in Clauses (a) to (e). Clause (aa) was also introduced in 1988 and thereby another ground for disqualification came to be added to the existing grounds. Under the said Clause (aa), a person who is not eligible for membership of the Society u/s 19 is disqualified for being admitted as, and for being, a member of the Society. Under these circumstances, once the power of non-admission of a member of the Society u/s 19 has been engrafted in Section 21 and delegated for removal from membership as envisaged in Rule 20 of the Rules, Superintendent of Excise has power under Rule 20 which empowers him to consider the ineligibility of being removed from membership u/s 19. Section 19 power was delegated to the Superintendent of Excise. The inescapable consequence is that the subsequent disqualification for being a member of the Society also becomes available under Rule 20 as a disqualification if the member ceases to be a tapper. It would be one of the factors to be considered under Rule 20. As a consequence, it is not necessary that there should be an express separate conferment of power of the Registrar u/s 21 on the Superintendent of Excise. We, therefore, hold that the view taken by the High Court is not vitiated by any error of law warranting interference.

4. The SLP is dismissed.

