

(1976) 12 AP CK 0001

In the Andhra Pradesh High Court

Case No : Writ Petition No. 4727 of 1972

A. Ranga Reddy

APPELLANT

Vs

General Manager, Co-operative Electricity Supply Society Ltd.,
Sircilla

RESPONDENT

Date of Decision : 16-12-1976

Acts Referred:

Constitution of India, 1950 — Article 226, 228

Citation : (1976) 12 AP CK 0001

Hon'ble Judges : Ramachandra Rao, J

Bench : Single Bench

Advocate : H.S. Gururaja Rao, for the Appellant; P.A. Chowdary, for the Respondent

Final Decision : Dismissed

Judgement

Ramachandra Rao, J.—In this writ petition filed under Article 226 of the Constitution, the petitioner seeks the issue of a writ of certiorari call for the records relating to the proceedings bearing No. CESS G.M.D. No. 1529 of 1975-76 dated 10 and 11th September, 1975 of the General Manager, Co-operative Electricity Society Limited, Sircilla, removing him from service. Various contentions have been raised in the writ petition challenging the impugned order. A preliminary objection has been raised by Sri P.A. Chowdary, the learned Counsel for the respondent contending that the respondent is a private society and therefore writ under Article 226 of the Constitution does not lie. Sri H.S. Gururaja Rao, the learned Counsel for the petitioner submitted that the respondent is a co-operative society a statutory and public body and therefore a writ lies but this question is no longer res integra so far as this is concerned.

2. In Mirmuzam Ali Khan vs. The Managine Director. The Andhra Pradesh Co-op. Central Land Mortgage Bank Barkatpura Hyderabad 21 W.P. No. 88/72 dt. 14-3-73 Obul Reddi, J (as he then was) held that he had held in a number of petitions that Article 226 of the Constitution of India would not be called in aid by

those serving in statutory Corporations or companies register under the Indian Companies Act, or societies registered under the Co-operative Societies Act, and that the petitioner therein, who was an employee of the Co-operative Land Mortgage Bank Limited, a Society registered under the Co-operative Societies Act, cannot maintain the writ petition against the society under Article 226 of the Constitution. In *N. Anjaneyulu Raju vs. The Land Mortgage Bank, Narsapur West Godavari*, represented by its President and two others WP No 206 of 1975, 1975 ALT 90 (NRC) the petitioner, an employee of Land Mortgage Bank, Narsapur which was a Primary Bank, sought to challenge the order, reverting him from the post of Assistant Manager to the post of Supervisor. Following the decisions in *Sukhdev Singh vs. Bhagatram* 1975 (1) SLR 605 and *Sabharwal Tehari vs. Union of India* 1975 (1) SLR 422 held that no writ could be issued against a society registered under the Co-operative Societies Act. On appeal in *W. A. No. 474 of 1975* this decision was confirmed by *Sambasiva Rao and Madhusudana Rao, JJ* by their Judgment dated 18th October, 1976, Their Lordships observed at page 8 of the Judgment as follows :

It must, however, be noticed that the petitioner is not an employee of the second respondent. He is an employee in the first respondent bank which is without doubt a private body.

3. Again at page 10 the learned Judges observed as follows :--

Even if it is construed as an order in violation of bye-law 8, it cannot be said that the second respondent violated any statutory Rule or Rules having the force or even the flavour of law. The bye-law is that the first respondent Land Mortgage Bank, Narsapur has been formed under the Andhra Pradesh Co-operative Societies Act. In *Co-operative Central Bank Ltd. and Others Vs. Additional Industrial Tribunal and Others*, the Supreme Court has clearly pointed out that the bye-laws of a co-operative society cannot be held to be law or to have the force of law. Non-observance of bye-law 8 by the first respondent bank cannot be considered to be violation of any statutory obligation. In this view of the matter the order of our learned brother dismissing the appellant's petition does not call for any interference.

4. This decision therefore clearly supports the contention of Sri P.A. Chowdary that the second respondent is a society registered under the Co-operative Societies Act which is a private body and therefore no writ lies against the respondent under Article 228 of the Constitution. Sri H.S. Gururaja Rao, relied upon the decision of Division Bench of this Court consisting of *Sambasiva Rao and Madhusudan Rao JJ.*, in *Osmania College Kurnool. Represented by its Correspondent vs. D.V. Subba Sastry and others* 1976 ALT 195 (NRC). But in that case the learned Judges held that the Osmania College is a public body which discharges public duties and therefore it is amenable to the writ jurisdiction under Article 226 of the Constitution. Their Lordships followed the decision of the Full Bench in *Harijander Singh Vs. Selection Committee, Kakatiya Medical College, Warrangal and Another*, But that decision has no application to the facts

of this case because here the co-operative society incorporated under the Co-op. Societies Act, is a private body and not a public body discharging public duties. The decision of the Division Bench in the Writ Appeal No 474 of 1973 dated 18th October, 1976 of Sambasiva Rao and Madhusudan Rao, JJ. is binding on me. Following the aforesaid judgment I hold that the writ petition is not maintainable against the respondent society and it is therefore dismissed, but in the circumstances there is no order as to costs.