
(1996) 03 AP CK 0072

In the Andhra Pradesh High Court

Case No : Writ Petition No. 4265 of 1996

Badugu Giribabu and Others

APPELLANT

Vs

The District Collector and Others

RESPONDENT

Date of Decision : 12-03-1996

Acts Referred:

Constitution of India, 1950 — Article 14, 226

Citation : (1996) 2 ALT 192 : (1996) 2 APLJ 48 : (1996) 1 APLJ 48

Hon'ble Judges : T.N.C. Rangarajan, J

Bench : Single Bench

Advocate : S. Lakshma Reddy, for the Appellant; G.P. for Co-operation, for the Respondent

Final Decision : Dismissed

Judgement

T.N.C. Rangarajan, J.—This Writ Petition challenges the notification for election for the 2nd respondent-society on the ground that the petitioners' claim for membership of the society has not been considered. Earlier the petitioners complained before this Court that their applications for membership have not been accepted. This Court by an order dated 17-7-95 passed the following order:-

"The Divisional Co-operative Officer, Guntur Division is directed to examine the claims of these petitioners and 300 others in the background of the specific allegation that they were denied membership on 2-7-1995 and 4-7-1995 whereas some of the supporters of the ruling party were given admission on or before 6-7-95 by the second respondent. The Divisional Co-operative Officer is also directed to examine the membership Registers with reference to "j" Forms" of those who have been made members to the Society upto 6-7-95. On verification if the Divisional Co-operative Officer is satisfied that the voters list issued by the Committee or the authorised officer in this behalf to the Election Officer is correct, and the allegations made by the petitioners are false, could sent a detailed report to the first respondent District Collector who is the competent authority for issuing of a fresh election notification in this behalf.

Since the process of elections will commence from 18-7-95, having regard to the above discussion, the said election process cannot be proceed with."

The case of the petitioners is that without complying with this direction, a fresh election notification has been issued on 27-2-96 for holding elections on 4-3-96. Learned Government Pleader for Co-operation produced the enquiry report dated 6-2-96 according to which the allegations of the petitioners that they were prevented from giving applications for membership were found to be false. It follows that the directions given by this Court in the above order was fully carried out and in view of the finding that the allegations of the petitioners were false, a fresh election notification was required to be issued and has also been issued.

2. Learned Counsel for the petitioners made alternate argument that the petitioners had given fresh applications not only to the Enquiry Officer but also to the District Co-operative Officer on 5-10-95 and until those applications are disposed of fresh election cannot be held ignoring the right of the petitioners to participate in the election. The learned Counsel for the petitioners referred to Section 19(2-A) of the A.P. Co-operative Societies Act, hereinafter called the "Act" and submits that once applications were given, they are deemed to be members and ignoring them from the election process was untenable.

3. Learned Government Pleader for Co-operation denies receipt of any Replications and also stated that u/s 19(2)(A) of the Act considering the petitioners as deemed to have become members will not arise unless the applications have been made first to the society and rejected u/s 19(3) of the Act. Learned Counsel for the Petitioners was not able to produce any acknowledgment for having sent the applications on 5-10-1995 though it is stated that the required amount was sent by draft which has been encashed. Even assuming that the applications were sent u/s 19(2)(A) of the Act directly to the District Co-operative Officer, I am of the opinion that the contention of the learned Government Pleader for Co-operation is correct. Though Section 19(2) (A) of the Act merely states that any person duly qualified for admission may make an application it is obvious that this remedy should not be resorted to unless it has been unreasonably refused by the Cooperative Society u/s 19(3) of the Act. Otherwise it will mean that the society is by-passed and applications are made directly to the Registrar and the persons are deemed to be members without giving opportunity to the Co-operative Society to consider whether they should be admitted as members or not. Since the petitioners have not approached the society and their applications have not been rejected in the first instance u/s 19(3) of the Act, any application u/s 19(2)(A) of the Act was not required to be considered. In this view of the matter, even assuming that the petitioners have sent their applications to the Registrar u/s 19(2)(A) of the Act, for which there is no proof, there is no infirmity in the failure to consider such applications and ordering election notification. Under these circumstances, the Writ Petition is dismissed. No costs.