

(2003) 11 AP CK 0076
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 2038 of 2003

Bugatha Prasad Rao

APPELLANT

Vs

Commissioner and Registrar of Co-operative Societies and
Another

RESPONDENT

Date of Decision : 27-11-2003

Acts Referred:

Citation : (2004) 2 ALD 40 : (2004) 1 ALT 459

Hon'ble Judges : Devinder Gupta, C.J;G. Rohini, J

Bench : Division Bench

Advocate : D.V. Nagarjuna Babu, for the Appellant; G.P., for the Respondent

Final Decision : Allowed

Judgement

Devinder Gupta, C.J.—The order passed by learned single Judge dismissing appellant's writ petition is under challenge in this writ appeal. In the writ petition, appellant had sought quashing of proceeding in Rc.No. 2774/2003-C, dated 16th October, 2003 of the second respondent to be arbitrary, illegal and contrary to the provisions of law. By the said order, the second respondent-Deputy Registrar of Co-operative Societies, Vizianagaram, declined to supply the appellant a copy of Memo, dated 20th September, 2003 issued by the first respondent-Commissioner and Registrar of Co-operative Societies, Hyderabad, directing him to take action against the Board of Management of Co-operative Urban Bank Limited, Vizianagaram. Supply of copy of the said document was declined to the appellant by the second respondent on the ground that it is an internal correspondence between the Registrar of Co-operative Societies and the Divisional Co-operative Officer and, therefore, the same cannot be treated as "public document."

2. Learned single Judge dismissed the writ petition at the admission stage itself observing that even if copy was not supplied to the appellant, no grievance can be made by the appellant since only those documents have to be supplied to the appellant which will be produced in evidence in surcharge proceedings and in

case the document is not supplied to appellant it cannot be used as evidence in surcharge proceedings.

3. We have heard Counsel for parties and are of the view that the order of learned single Judge, as also the order impugned in the writ petition, cannot be sustained in law.

4. A perusal of the very show-cause notice, served upon the appellant and others calling upon them to show cause why an order u/s 60(1) of the A.P. Cooperative Societies Act, 1964 should not be passed against them making them liable for contribution of the amount and loss caused to the Vizianagaram Co-operative Urban bank Limited, discloses that such action is being taken by him (Deputy Registrar) since Commissioner of Co-operative Societies has, by this communication dated 20th September 2003, directed him to take action against the past Board of Management/ present Board of Management and the Secretary of the Bank. Such communication, being sine qua non for initiating proceedings, cannot be withheld by the respondents. In the absence of such document, no proceedings could have been initiated against the appellant and others since the proceedings are being initiated against the appellant and others because of the said document. In view of the above, appellant would be entitled at least to a copy of the document subject, of course, to the right of the respondents to continue with the proposed proceedings against the appellant and others and there respondents will have to take action against the appellant and others only in case they are not satisfied with the explanation of the appellant. Accordingly, writ appeal is allowed, impugned order passed by learned single Judge is set aside and writ petition is allowed with direction to the second respondent to furnish a copy of the document in question to the appellant within a period of three weeks from the date of receipt of a copy of this order. Time to submit reply by the appellant to the show-cause notice accordingly will stand extended by a period of two weeks thereafter.