

(2008) 10 AP CK 0047

In the Andhra Pradesh High Court

Case No : Writ Petition No. 19734 of 2008

Daggumalli Ravichandra and Others

APPELLANT

Vs

District Co-operative Officer and Others

RESPONDENT

Date of Decision : 14-10-2008

Acts Referred:

Citation : (2009) 2 ALD 118 : (2009) 5 ALT 145

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : C. Raghu, for the Appellant; G.P. for Respondent Nos. 1 to 3 and K. Chidambaram, for the Respondent

Final Decision : Allowed

Judgement

L. Narasimha Reddy, J.—Petitioners are the Members of Daggumallivari Palem Aadhi Andhra Cooperative Collective Farming Society Limited, 4th respondent herein. The term of the managing committee expired in 2003. The person-in-charge viz., 5th respondent herein, was appointed, for managing the affairs of the society. He issued a show cause notice, dated 12.05.2008, to the petitioners and certain others, directing them to explain as to why their membership shall not be cancelled. The reason mentioned in the show cause notice was that the meeting of the general body, in which a resolution was passed admitting the petitioners as members, is defective. The petitioners submitted their explanations on 28.05.2008. Not being satisfied with the same, the 5th respondent issued individual proceedings, dated 30.05.2008, cancelling the membership of the petitioners. The said proceedings are challenged in this writ petition.

2. Heard the learned Counsel for the petitioners, learned Government Pleader for Cooperation and Sri K. Chidambaram, learned Counsel for the 5th respondent.

3. The proceedings, cancelling the membership of the petitioners, were issued by the 5th respondent. The short question that arises for consideration in this writ

petition is as to whether the 5th respondent is competent to cancel the membership in a society. The Judgment of the Supreme Court in *Jt. Registrar of Co-op. Societies Vs. T.A. Kuttappan and Others*, had a direct bearing on the issue. The subject matter of the case before the Supreme Court was the competence of the person-in-charge, in the context of admission of members. It was held that the person-in-charge does not have the power to admit members and that it is only for the general body of the society to admit new members. The power to cancel a member is almost incidental to the one of admission. When in categorical terms, the Supreme Court held that the person-in-charge does not have the power to admit, it goes without saying that he does not have the power to cancel the membership of the existing members. Therefore, the impugned proceedings are liable to be set aside.

4. The writ petition is accordingly allowed and the impugned proceedings issued against the petitioners are set aside. This order, however, would not preclude the competent authority under the A.P. Co-operative Societies Act and the Rules made thereunder to take necessary action vis-a-vis the petitioners. There shall be no order as to costs.