

(2014) 09 AP CK 0018

In the Andhra Pradesh High Court

Case No : Writ Petition No. 23246 of 2014

Guggilla Raja Narsimulu

APPELLANT

Vs

The District Collector, Karimnagar District cum Election
Authority

RESPONDENT

Date of Decision : 04-09-2014

Acts Referred:

Citation : (2015) 2 ALD 1

Hon'ble Judges : Nooty. Ramamohana Rao, J

Bench : Single Bench

Advocate : K. Venumadhav, Advocate for the Appellant

Judgement

Nooty Ramamohana Rao, J.—Some of the members of the Toddy Tappers' Cooperative Society, Metpally, Karimnagar District appear to have represented to the Deputy Election Authority-cum-Prohibition & Excise Superintendent, Jagtial that if the election is conducted by the method of showing the hands, those who are not favourably disposed towards some people are being routinely subjected to threats and hence, prayed for conducting the election by secret ballot method.

2. Learned counsel for the petitioner Sri Venumadhav would submit that the Society itself has passed an unanimous resolution, at its meeting held on 25.06.2014, that the election shall be conducted by adopting the method of show of hands. Therefore, contrary to the Resolution passed by the Society, the election authority cannot conduct the election by adopting the secret ballot method.

3. Rule 22-B of the Andhra Pradesh Cooperative Societies Rules deals with the mode of election of members of the Committees of weaker section societies or societies having a small number of membership. Clause (a) thereof clearly spelt out that the voting of the members of the Committee of the weaker section societies or societies having a small number of membership may be done by show of hands at the general meeting convened for election and thereafter,

provided for the detailed procedure to be adopted in that regard.

4. The learned counsel for the petitioner would submit that the total membership strength of the society herein is 250 and hence, this is a small number. Consequently, the method of electing by show of hands should have been adopted. The learned counsel would further submit that the spirit behind the Rule is to ensure that the precious money of the society is not unnecessarily wasted by indulging in printing of ballot papers and thus, money, time and energy in that regard can be saved. However, the learned Government Pleader Sri Arun would point out that clause (b) of Rule 22-B of the Rules provided for contingent circumstances. Clause (b) sets out that if there is any disturbance in conduct of poll, then the Election officer shall stop the proceedings and shall send a report to the Election Authority, who will then order for conduct of repoll on any other day to be specified by issuing a notice. The Election Authority may conduct the election by secret ballot. Therefore, the learned Government Pleader would urge that it is not as if that the election cannot be conducted by the method of secret ballot.

5. A close scrutiny of Rule 22-B makes the position very clear. For election of the office bearers of the Managing Committee of any weaker section society, the method that should be adopted for electing the members is by way of show of hands. Similarly, where the strength of a cooperative society is only a limited number, the method of electing the committee members by show of hands is a reasonable and fair method. It will certainly help in saving the precious resources of the society, but however, clause (b) thereof clearly brings out that whenever an Election Authority is of the view that polling by show of hands is not possible, then, the election procedure prescribed in the Rules for conduct of elections by secret ballot shall be followed. In other words, an element of discretion has been left in the hands of the Election Authority to order for electing the members to the Committee by following the secret ballot method. By this method, every voter will have implicit confidence that the secrecy of his choice of the candidates would be ensured and consequently, no personal animosity or ill-will will be developed by those candidates, who have not been chosen by him. It is very essential that every voter must necessarily exercise his choice totally out of fearlessness and that his exercise of choice should not result in any adverse or hostile attention towards him. Free and frank expression of a voter is the hallmark of the democratic system of choosing the representatives. Therefore, a society, which is having strength of 250 members, in my opinion, cannot be construed as a society having less number of members. Though the Rules did not specify as to how the expression "societies having small number of membership" could be deciphered or understood, it is not very difficult for one to decipher the intention of the rule-making authority. When a small number assemble at one place and the method of show of hands is adopted, the entire process of electing the representatives can be accomplished in quick time and that too, very safely and easily. Without sounding to be very precise, I prefer to illustrate the above view point. If a society is having a total membership of let us say 50 persons,

even if all of them assemble at a meeting, it will not be difficult for the person, who is conducting the election, to find out as to whether 26 or more number have exercised their choice in favour of one candidate or the other, but if the number swells beyond that, sometimes, it may cause problems, inasmuch as counting of hands may not be very-well organized and consequently, precise identification of the person exercising the choice cannot be achieved. In such circumstances, the choice expressed by a candidate may be viewed with disfavour by those candidates in whose favour such choice has not been exercised. Therefore, handling numbers beyond 50 may prove to be a difficult exercise. It is therefore, safe that wherever the membership strength of a society exceeds 50, the method of electing the representative by a secret ballot method can be adopted. Further, adverting to the contention of the learned counsel that unnecessary expenditure can be avoided, by not taking an option of secret ballot, all I need to observe is the ballot papers are under no legal obligation to be printed at all times. They can even be prepared by using a clear hand writing of any person. All that is required to be done is, tallying with the exact number of the membership strength of the society, the ballots have to be manually prepared. Each ballot must necessarily bear the signature of the Election Officer, so that the unauthenticated ballots will not find their way into the ballot box. Therefore, there are several ways and means by which the wasteful expenditure, which the learned counsel for the petitioner has pointed out, can be avoided.

6. This apart, Rule 22-C, which starts with a non-abstante clause, has provided for a contingent situation, where there is a reasonable apprehension that voters will not be allowed to vote frankly and freely, postponement of election can be ordered either by the State Government or by the Election Authority. This clause, in my opinion, offers a clue for understanding the spirit with which Rule 22-B has been framed. Emphasis is supplied by the rulemaking authority on free, frank and fearless expression of choice of the members. That is absolutely ensured by following the method of conducting election by secret ballot method.

7. In that view of the matter, I do not find, in principle, anything wrong in the decision taken by the competent authority for conducting elections to the 3rd respondent society by adopting the secret ballot method. Hence, I do not find any merit in this Writ Petition and it is accordingly, dismissed. No costs.

8. Consequently, the miscellaneous applications, if any shall also stand dismissed.