
(2014) 10 AP CK 0090
In the Andhra Pradesh High Court
Case No : Writ Petition No. 29888 of 2014

K. Sridevi

APPELLANT

Vs

The Government of Andhra Pradesh

RESPONDENT

Date of Decision : 30-10-2014

Acts Referred:

Citation : (2015) 1 ALD 434 : (2015) 1 ALT 183

Hon'ble Judges : C.V. Nagarjuna Reddy, J

Bench : Single Bench

Advocate : D. Prakash Reddy, Senior Counsel for K. Janakirami Reddy, Advocate for the Appellant; Bobba Vijaya Lakshmi and N. Niyatha, Advocate for the Respondent

Judgement

C.V. Nagarjuna Reddy, J.—This Writ Petition is filed for a mandamus to declare that the meeting held on 30-9-2014 for discussing No Confidence Motion against the petitioner is illegal.

2. The petitioner is the President of the District Co-operative Central Bank Limited, Kurnool (for short the Bank). On 2-9-2014, notice of No Confidence Motion was issued informing the petitioner and all the Directors of the Bank that a meeting will be held on 22-9-2014 for discussing the No Confidence Motion. On 22-9-2014, the meeting was not held as respondent No. 3 was stated to be not well and the same was displayed in the notice board. The petitioner specifically pleaded, with reference to which there is no dispute that on the following day the meeting was not held and in the meantime respondent No. 1 has granted stay of meeting on 23-9-2014 on the allegation that one of the Directors was kidnapped. The said order was vacated by respondent No. 1 on 29-9-2014. The petitioner has pleaded that without issuing further notice, respondent No. 3 has hurriedly held the meeting on 30-9-2014 wherein the No Confidence Motion was stated to have been passed against the petitioner.

3. Respondent No. 3 has filed a counter-affidavit.

4. Respondent Nos. 7 to 21 got themselves impleaded in the Writ Petition.

5. At the hearing, Sri D. Prakash Reddy, learned Senior Counsel appearing for the petitioner has submitted that the procedure followed by respondent No. 3 is in flagrant violation of the proviso to sub-section (3) of Section 34-A of the Act as no notice was issued for holding the meeting after the same was adjourned on 22-9-2014.

6. The fact that no notice was given to the petitioner as alleged is admitted by the respondents. However, it is the pleaded case of respondent No. 3 in the counter-affidavit that since no order of stay was granted by a Court, there was no necessity for issuing a fresh notice.

7. I am afraid, I cannot accept this plea. The proviso to sub-section (3) of Section 34-A of the Act reads as under:

Provided that where the holding of such meeting is stayed by an order of a Court the meeting shall be adjourned, and the Registrar shall hold the adjourned meeting on a date not later than thirty days from the date on which he received the intimation about the vacation of stay, after giving to the members notice of not less than fifteen clear days of such adjourned meeting.

8. No doubt, the word Court is used in the proviso reproduced above. However, the context in which the said word is used must be understood as to take in its sweep every forum which granted order of stay of the meeting. The object behind providing a fresh notice after the meeting was adjourned is to give an opportunity to all the elected representatives to participate in the meeting to discuss the No Confidence Motion and exercise their voting right. This being so, the stand of the respondents that there is no requirement of giving notice for conducting a fresh meeting as it is not the Court which has granted the stay, is wholly without any merit.

9. At the hearing, it is submitted that in the meeting held on 30-9-2014, there was quorum and that the No Confidence Motion was passed. Inasmuch as the holding of the meeting on 30-9-2014 to discuss the No Confidence Motion against the petitioner itself was in violation of the proviso to sub-section (3) of Section 34-A of the Act as no notice was issued to the parties concerned, the resolution passed in the said meeting has no legal validity and the same does not bind the petitioner.

10. For the above mentioned reasons, the Writ Petition is allowed by declaring that the holding of the meeting on 30-9-2014 to discuss the No Confidence Motion against the petitioner and the resolution passed therein are not valid in law and the same do not bind the petitioner. Respondent No. 3 is left free to issue fresh notices as envisaged by the proviso to sub-section (3) of Section 34-A of the Act and hold a fresh meeting.

11. As a sequel to the disposal of the Writ Petition, WPMP Nos. 37330, 37331, 37332 and 38092 of 2014 and WVMP Nos. 2870 and 2914 of 2014 are disposed

of as infructuous.