
(2021) 09 TEL CK 0016
In the Telangana High Court
Case No : Writ Petition No. 18310 Of 2020

Munuganti Suresh

APPELLANT

Vs

Government Of Telangana

RESPONDENT

Date of Decision : 20-09-2021

Acts Referred:

Constitution Of India, 1950 — Article 14

Telangana Cooperative Societies Act, 1964 — Section 51, 60, 64, 64(1), 64(2)(c), 65

Citation : (2021) 09 TEL CK 0016

Hon'ble Judges : P.Naveen Rao, J

Bench : Single Bench

Final Decision : Allowed

Judgement

1. This writ petition is filed seeking the following relief :

"...issue an order or direction especially one in the nature of Writ of Mandamus calling for the impugned order of the Respondent No.3 issued in his proceedings RC.No.84/2016-H dated 5.9.2020 winding up the affairs of "Sri Rama Lingeswara Weaker Sections Cooperative Housing Society Ltd Registered No.TBC-271/1980, Kushaiguda, Kapra Mandal, Medchal- Malkajgiri Dist. by appointing Asst. Registrar/ Keesara Circle as Liquidator (R4); and declare the same as illegal, arbitrary and violative Article of 14 of the Constitution of India, besides being violative of Sec.51 & 64 of TCS Act, 1964 and also violative of principles natural justice while issuing a consequential direction to the respondents in general and to R3 and R4 in particular not to interfere with the functioning of Sri Ramalingeswara Weaker Sections Cooperative Housing Society Ltd., with a further direction to Respondent No.5 to conduct elections to the said society and pass such other order..."

2. Heard Sri D. Goverdhanachary, learned counsel for the petitioners and learned Government Pleader for Co-operation.

3. The Ex-Managing Committee Members of Sri Ramalingeswara Weaker Sections

Cooperative Housing Society Ltd., (for short 'the Society') instituted this writ petition, challenging the proceedings dated 05.09.2020 of the Deputy Registrar/ District Cooperative Officer, Medchal-Malkajgiri District, made in exercise of power under Section 64 (2) (c) of the Telangana Cooperative Societies Act, 1964 (for short 'the Act, 1964') r/w. G.O.Ms.No.10, Agriculture & Cooperation, (Coop.II) Department, dated 30.01.2017 winding up the Society and appointed the Assistant Registrar, Keesara Circle as Liquidator under Section 65 of the Act, 1964. The Liquidator was asked to take all steps for liquidation of the Society, as per the Act, 1964 and the Rules made there under. The primary challenge is on the ground that report of enquiry under Section 51 was not furnished and steps required before winding up a Society were not followed.

4. On instructions, learned Assistant Government Pleader informs the Court that on going through the record, it was found that the report of enquiry under Section 51 of the Act, 1964 was not furnished and no further steps were taken as required by Section 60 and 64 of the Act, 1964 but straight away impugned decision was made.

5. Having regard to the said statement, the Court is not recording in detail the facts in issue leading to the order impugned.

6. Suffice to note that enquiry was ordered under Section 51 of the Act, 1964, into the constitution, working and financial condition of the Society, with special reference to certain aspects mentioned in the decision and appointed the Assistant Registrar of the Office of the Deputy Registrar as Enquiry Officer. The Enquiry Officer submitted his report vide his letter dated 26.03.2019. In the report he has pointed out that the Society was converted as a Charitable Trust; was misleading the poor people in the guise of allotment of open plots; constructed houses under different State and Central Government Schemes; has not acquired any land since its registration; and the land parcels at Gachibowli and Kapra claimed by the Society, do not belong to the Society. The enquiry Officer therefore, opined that there is no need to continue the Housing Society and requested to initiate action for winding up of the Society.

7. Vide notice dated 13.08.2019, the Ex-Managing Committee members were called upon to respond, as to why the Society should not be wound up. It appears, as they were served notices, the ex-members of the Managing Committee submitted joint explanation. Ultimately, the impugned order winding up the Society is passed.

8. The primary challenge to winding up of the Society is on the ground that the statutory mandate was not complied and the report of enquiry under Section 51 was not furnished to the ex-members of the Managing Committee of the Society and on that ground alone, the entire proceedings are vitiated.

9. According to learned Assistant Government Pleader, the term of the Managing Committee expired in January, 2017 and thereafter no election was held to constitute new Managing Committee and that by the time the proceedings were

initiated, the Society itself became defunct. Therefore, the report of enquiry was not furnished.

10. It is not stated as to why the members of the Ex-Managing Committee were issued notices calling them to explain against winding up the Society and why steps were not taken to appoint committee of persons-in-charge to manage the affairs of the Society.

11. Having regard to these serious lacunae in the proceedings, learned Assistant Government Pleader fairly submits that the competent authority shall now take steps to appoint Committee of persons-in-charge to manage the affairs of the Society, shall supply copy of the report of enquiry under Section 51 of the Act, 1964 to such Committee and by following the procedure as required by Section 64 of the Act, 1964, appropriate proceedings as may be required shall be passed.

12. In view of the fair submission of learned Assistant Government Pleader, the order impugned is set aside, granting liberty to the Deputy Registrar/District Cooperative Officer to take steps as required by Section 64 of the Act, 1964. The competent authority shall appoint Committee of persons-in-charge within two weeks from the date of receipt of copy of this order to look after the affairs of the Society and issue notice as required by Section 64 (1) to the Committee. The Committee of persons-in-charge shall convene a General Body Meeting, to consider the notice along with the report of enquiry under Section 51; note the objections, if any, raised by the members, consolidate the objections; and incorporate them in the response to the notice issued under Section 64 of the Act, 1964.

13. Writ Petition is accordingly, allowed. Miscellaneous petitions, if any, pending shall stand closed.