

(2001) 09 AP CK 0095

In the Andhra Pradesh High Court

Case No : Writ Petition No. 24976 of 1996

N. Satyanarayana

APPELLANT

Vs

Dist. Co-operative Officer, Kakinada, E.G. Dist. and Others

RESPONDENT

Date of Decision : 05-09-2001

Acts Referred:

Citation : (2001) 6 ALD 243 : (2001) 6 ALT 744

Hon'ble Judges : R. Ramanujam, J

Bench : Single Bench

Advocate : Party in person, for the Appellant; Government Pleader for Co-operation and C.V. Mohan Reddy, for the Respondent

Final Decision : Allowed

Judgement

R. Ramanujam, J.

1. The petitioner, who is working as a Paid Secretary in Z. Medapadu Primary Agricultural Co-operative Society, Dwarapudi, Mandapeta Mandal, East Godavari District. 4th respondent herein, filed this writ petition impugning the validity of the order dated 11-11-1996 issued by the General Manager, District Co-operative Central Bank, Kakinada. 3rd -respondent herein, keeping him under suspension with immediate effect, pending enquiry into the allegations made against him regarding the working of the Society.

2. The petitioner was originally appointed on 1-3-1982 as a Paid Secretary and was posted to Chintaluru Primary Agricultural Co-operative Society, Alamuru Mandal, East Godavari District. Consequent to insertion of Section 116-AA in the A.P. Co-operative Societies (Amendment) Act, 1985 (by the Amendment Act 21 of 1985), the post of Paid Secretary was decaderised and the petitioner was allotted to the 4th respondent-Society by the District Collector, Co-operation, East Godavari District, who is the functional Registrar under the A.P . Co-operative Societies Act, 1964 (hereinafter referred to as "the Act"), by his order dated 9-5-1987. That order was made by the District Collector, Co-operation,

Kakinada, in accordance with Rule 72 of the A.P. Co-operative Societies Rules, 1964 (hereinafter referred to as "the Rules"), whereunder guidelines to allot decaderised Secretaries to the Societies were issued. On 11-11-1996 the 3rd respondent passed the impugned order.

3. The main contention advanced on behalf of the petitioner, by his Counsel-Sri A. Satyaprasad, is that on his allotment to the 4th respondent-Society on 9-5-1987 by the competent authority, the petitioner has become an employee of that Society; thereafter the Registrar of the Co-operative Societies has no disciplinary control over him in view of the mandatory provision contained in Sub-rule (4) of Rule 72 of the Rules, and, therefore, the 3rd respondent has no jurisdiction to keep him under suspension by issuing the impugned order.

4. Counsel for the 3rd respondent, Sri C.V. Mohan Reddy, however, contends that the allotment of the petitioner to the 4th respondent-Society was not complete in view of the order of a Division Bench of this Court in Writ Petition No. 1026 of 1990 and, therefore, the 3rd respondent has authority/jurisdiction to keep the petitioner under suspension under Sub-Rule (5) of Rule 72 of the Rules and, in fact, he acted in accordance with the directions issued by the District Co-operative Officer, Kakinada, 1st respondent herein, as contemplated under the said Sub-Rule and placed the petitioner under suspension.

5. Having considered the rival contentions, I find merit in the contentions advanced on behalf of the petitioner.

6. Sub-Rules 3 and 4 of Rule 72 of the Rules provide for the consequences of allotment of a decaderised Paid Secretary to a Society. The said Sub-Rules read thus:

"R.72(3)(a). The Secretary on allotment to a Society, shall be deemed to be the employee of that Society and shall be entitled to receive pay and allowances as may be fixed from the funds of the said Society.

(b). The service conditions of the secretaries working in the societies shall be governed by such service regulations as may be framed by the Registrar for adoption by the Societies.

(4) Subject to the disciplinary procedure laid down in the Service Regulations as may be issued by the Registrar of Co-operative Societies and to be adopted by the Societies, the Society shall exercise disciplinary control over the Secretary:

Provided that, the disciplinary proceedings if any pending on the date of abolition of the common cadre shall be conducted against the concerned Secretary by the Society to which he/she stands allotted in accordance with such service Regulations".

7. A close and combined reading of the aforesaid two Sub-Rules makes it abundantly clear that after allotment of a decaderised Secretary to a particular Society, he shall be subject to the disciplinary control of that Society alone. In

other words, the Registrar of Co-operative Societies or any other Officer of the Co-operative Department will cease to have any disciplinary control over such an allotted Secretary.

8. In this case, as already noted, the petitioner was allotted to the 4th respondent-Society by the District Collector, (Cooperation), Kakinada, who is the functional Registrar under the provisions of the act, by Virtue of the powers delegated to him. Consequent to that order, the petitioner joined in the 4th respondent-Society on 16-5-1987. Nobody has questioned the validity of the said order immediately thereafter. It appears that in the year 1990 the A.P. Stale Cooperative Societies Secretaries & Employees Union, East Godavari District filed Writ Petition No.1026 of 1990 seeking a Writ of Mandamus declaring the action of the respondents in trying to allot the decaderised Secretaries in East Godavari District to various Societies without rectifying the anomalies enumerated therein as illegal. While admitting that Writ Petition, this Court on 31-1-90 granted interim stay of allotment of decaderised Secretaries to various Societies pursuant to Rule 72 of the Rules, in WPMP No 1298 of 1990. Subsequently, by an order dated 20-2-1990 the said interim order was extended until further orders. Ultimately, that Writ Petition was disposed of "giving liberty to the petitioner-Union to file a representation/objections, if any, before the competent authority, seeking the relief, within three months from the date of this order and if such a representation/ objections, if any, is filed, the respondent authorities are directed to consider and dispose of the same in accordance with law, within two months thereafter. Till the disposal of the representation, status quo, existing as on today, shall be maintained".

9. The learned counsel for the 3rd respondent now contends that subsequently nothing has been done by the District Collector, (Co-operation), Kakinada, and, therefore, the status quo order is still in operation. He further contends that in view of the said status quo order, the allotment of the petitioner to the 4th respondent-Society has not yet attained finality and, therefore, under Sub-Rule (5) of Rule 72 of the Rules, the 3rd respondent has jurisdiction and authority to keep the petitioner under suspension.

10. I am not able to accept this contention. As already noted, the allotment of the petitioner to the 4th respondent-Society made by the District Collector, (Cooperation), Kakinada, by his order dated 9-5-1987 was not questioned by any person and the allotment has thus became final long back. Further, the petitioner is not a party to Writ Petition No. 1026 of 1990 and, therefore, any decision or order rendered therein is not binding on him. Further more, as already noted, pursuant to the allotment order, the petitioner had joined in the 4th respondent-Society on 16-5-1987 i.e., long before this Court granted interim stay of allotment of decaderised Secretaries to various Societies in WPMP No. 1298 of 1990, initially, for two weeks. Neither the said interim order nor the final order in the Writ Petition directing to maintain status quo will not have the effect of suspending the order of the District Collector, (Cooperation), Kakinada, allotting

the petitioner to the 4th respondent-Society.

11. In this view of the matter, Sub-rule (5) of Rule 72 of the Rules is not applicable to the facts of this case. Consequently, I have no hesitation to hold that the 3rd respondent cannot exercise any disciplinary control over the petitioner. The impugned order, therefore, cannot be sustained.

12. Accordingly, the Writ Petition is allowed. A Writ of Mandamus shall issue declaring the impugned Proceedings No. Dev/ Sec.Cell/96-97/A7, Dated 11-11-1996, issued by the 3rd respondent as illegal and void. No costs.