

(2000) 12 AP CK 0080

In the Andhra Pradesh High Court

Case No : WA No's. 1342, 1337 and 1879 of 1998

Special Category Deputy Registrar/District Co-operative
Officer, Srikakulam and another

APPELLANT

Vs

Nookala Gavariah and others

RESPONDENT

Date of Decision : 20-12-2000

Acts Referred:

Citation : (2001) 1 ALD 410 : (2001) 1 ALT 351

Hon'ble Judges : S.B. Sinha, C.J;B. Subhashan Reddy, J

Bench : Division Bench

Advocate : Mr. D.V. Bhadram, Mr. Koka Raghava Rao, for the Respondent

Judgement

S.B. Sinha, CJ

1. These writ appeals are directed against a common order dated 6-4-1998 passed by a learned single Judge of this Court in Writ Petition No.11623 of 1997 and batch whereby and whereunder an order passed as against the writ petitioners by the Special Category Deputy Registrar/District Co-operative Officer, dated 20-5-1997 directing suspension of the writ petitioners was set aside. The said order reads thus:

"An Inquiry u/s 51 of the APCS Act 7 of the 1964 was ordered into the affairs of the Primary Agricultural Co-operative Credit Society Limited, Rana in Jamuru Mandal in this Officer proceedings RC No.1455/97-C, dated 27-3-1997 and the Divisional Co-operative Officer, Srikakulam has been appointed as Inquiry Officer to conduct the said inquiry.

The Inquiry Officer through his interim report in Rc.No.608/97-B, dated 15-5-1997 brought to the notice of the undersigned among other things that the following paid officers of the Kotabormmali Branch of the District Co-operative Central Bank Limited, Srikakulam (i.e.,) financing Bank to the Ran Primary Agricultural Co-operative Credit Society are responsible for misappropriation of funds of the society.

- (1) Sri K. Suryanarayana, Supervisor.
- (2) Sri N. Gavaraiah, Supervisor.
- (3) Sri D. Satyanarayana, Accountant.
- (4) Sri N. Malleswara Rao, Cashier.

The inquiry Officer further reported that the continuance of the above 4 employees in office is not desirable as there would be every possibility of tampering of the documents connected with the inquiry and may cause hindrance of the inquiry.

In the circumstances explained by the inquiry officer the undersigned opines that there is prima facie evidence against each of the aforementioned 4 paid officers of the Kotabommali Branch of the District Co-operative Central Bank Limited, Srikakulam and the suspension of the above 4 paid officers is necessary in the interest of the society and also the Bank and for smooth conduct of enquiry.

The Special Category Deputy Registrar/District Cooperative Officer, Srikakulam by virtue of powers vested in him u/s 59(1) of the APCS Act 7 of 1964 read with G.O. Ms.No.34 F and A (Co-op.IV) Department, dated 16-1-1989 hereby directs the committee of the District Co-operative Central Bank Limited, Srikakulam to place or cause to be placed the following 4 paid officers of the Bank under suspension forthwith pending inquiry/investigation and disposal of the matter-

- (1) Sri K. Suryanarayana, Supervisor.
- (2) Sri N. Gavaraiah, Supervisor.
- (3) Sri D. Satyanarayana, Accountant.
- (4) Sri N. Malleshwara Rao, Cashier.

The paid officers suspended in pursuance of this direction shall not be reinstated except with the previous sanction of the undersigned.

The Committee should note that failure to comply with the direction issued warrants action u/s 34(1) and u/s 70(1)(b) of the APCS Act 7 of 1964.

Necessary compliance report may invariably be furnished within 15 days from the date of receipt of this direction."

2. It is not in dispute that the aforementioned four employees of the Bank were not employees of Rana Primary Agricultural Co-operative Society in relation whereto an enquiry in terms of Section 51 of the Andhra Pradesh Co-operative Societies, 1964, (hereinafter referred to for the sake of brevity as "the said Act"), was initiated.

3. The only question, which falls for consideration in these appeals, is as to whether, having regard to the phraseology used in Sections 51 and 59(1) of the said Act, the impugned order of suspension was sustainable. Sections 51 and 59

(1) of the said Act read thus:

"51. Inquiry :--The Registrar may, of his own motion and shall, on the application of a society to which the society concerned is affiliated, or of not less than one-third of the members of the committee, or of not less than one-fifth of the total number of members of the society, hold an inquiry or direct some person authorised by him by an order in this behalf to hold an inquiry into the constitution, working and financial condition of a society. Such inquiry shall be completed within a period of four months from the date of commencement of the enquiry and the report of enquiry along with the findings of the Registrar thereon shall be placed before the next general meeting of the society :

Provided that the Registry may, for reasons to be recorded in writing extend the period aforesaid for a further period not exceeding two months.

59. Suspension of officer or servant of society :--(1) Wherein the course of an audit u/s 50 or an inquiry u/s 51 or an inspection u/s 52 or Section 53, it is brought to the notice of the Registrar that paid officer or servant of a society has committed or has been otherwise responsible for mis-appropriation, breach of trust or other offence, in relation to the society, the Registrar may, if in his opinion there is prima facie evidence against such paid officer or servant and the suspension of such paid officer or servant is necessary in the interest of the society, direct the committee pending the investigation and disposal of the matter, to place or cause to be placed such paid officer or servant under suspension from such date and for such period as may be specified by him, but not retrospectively."

4. The Registrar under the said Act in terms of the provisions thereof is a statutory authority and exercises a statutory function. He is not the employer of the concerned employee. A special power of suspension conferred upon him must be exercised only in the event the conditions precedent therefore subsist or exist. It is now a well-settled principle of law that a statutory authority must act within the four corners of the statute.

5. Sections 51 and 59 (1) of the said Act, in our considered opinion, must be read conjointly. So read, there cannot be any doubt whatsoever that an order of suspension can only be passed only in relation to a paid officer or servant of a society in relation where to, upon an enquiry, a prima facie satisfaction can be arrived at by the Registrar that it is necessary in the interest of the society to direct the Committee, pending investigation and disposal of the matter, to place or cause to be placed such paid officer or servant under suspension. "Committee" has been defined in Section 2(b) of the said Act to mean the governing body of a society by whatever name called, to which the management of the affairs of the society is entrusted. It is, therefore, clear that the direction to place employees of a society under suspension can only be issued upon the Committee of the said society itself. If no enquiry had been pending against the Bank, only because the statutory authority has come to a conclusion that its employees are also involved

in the matter, the same ipso facto would not attract the provisions of Section 59(1), of the said Act. The order of suspension involves civil or evil consequences. In that view of the matter, apart from the fact that literal reading of the statute does not permit any other construction, the same should also required to be construed strictly.

6. For the reasons aforementioned, we do not find any infirmity in the order passed by the learned single Judge. These writ appeals are, therefore, dismissed. No order as to costs.