

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

TUESDAY, THE TWENTY SIXTH DAY OF FEBRUARY
TWO THOUSAND AND EIGHT

PRESENT
THE HON'BLE MR JUSTICE RAMESH RANGANATHAN
WRIT PETITION NO : 1911 of 1999

Between:

..... PETITIONER

AND

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that
in the circumstances stated in the Affidavit filed herein the High Court
will be pleased to

Counsel for the Petitioner:MR.M.RAJAMALLA REDDY

Counsel for the Respondent No.: GP FOR COOPERATION

The Court made the following Order:

Questioning the proceedings of the first respondent dated 08-01-1999, whereby the ratification orders issued by the Divisional Cooperative Officer earlier for enhancing the salary of the petitioners was cancelled, the present writ petition is filed.

The contention of the petitioners, as forcefully put across by Sri M.Raja Malla Reddy, is that the impugned order is in violation of principles of natural justice in as much as the petitioners were neither put on notice nor were they given an opportunity of being heard before the impugned order was passed.

Learned Government Pleader for Cooperation, on the other hand, would contend that under Section 116 (c) of the A.P. Cooperative Societies Act, 1964 (for short 'the Act'), prior to its amendment by Act 22 of 2001 with effect from 25-04-2001, the power of the society to fix the staffing pattern, qualifications, pay scales and other allowances etc. for its employees, could be exercised only with the prior approval of the Registrar of Cooperative Societies and, in as much as the power under Section 116 (c) of the Act was not delegated by the Government to the Divisional Cooperative Officer, the ratification orders passed earlier were non-est in the eye of law since the salary of the petitioners could not have been enhanced without prior approval of the Registrar of Cooperative Societies. She would further contend that approval of the Registrar of Cooperative Societies is a condition precedent for fixing the pay scales of employees of Cooperative Societies and, since prior approval of the Registrar of Cooperative Societies was not obtained, the

petitioners could not have been given the benefit of enhanced salary. Learned Government Pleader would further contend that, pursuant to the amendment by Act 22 of 2001 with effect from 25-04-2001, the power of the Registrar of Cooperative Societies to grant approval is also circumscribed and he is empowered to give consent provided that the expenditure towards pay and allowances of the employees shall not exceed two percent of the capital, or thirty percent of the gross profit, in terms of actuals in a year whichever is less.

Sri M.Raja Malla Reddy, learned counsel for the petitioners, on the other hand, would contend that the power under Section 116(c) of the Act has been delegated to the Divisional Cooperative Officer and that he was entitled to ratify the action of the Management in enhancing the pay scales of the petitioners herein. Learned counsel would further submit that the amendment by Act 22 of 2001, with effect from 25-04-2001, is prospective in its application and, since the impugned order was passed prior thereto, the petitioners, on the said order being cancelled, would be entitled to be paid enhanced scales of pay.

I do not propose to examine the rival contentions aforementioned since the order impugned must be set aside for violation of principles of natural justice. The petitioners having been extended the benefit of pay scales, could not have been denied payment of the said amount without being put on notice and without being heard. However, in the light of the statutory provisions aforementioned, ends of justice would be met if the impugned order is quashed and the respondents are directed to put the petitioners on notice, give them an opportunity of being heard and, thereafter, pass an order, in accordance with law, with regards the petitioners entitlement to be paid enhanced salary. In

the meanwhile status quo as on today, both with regards payment of enhanced salary and recovery of the excess payment made, shall be maintained till a final order is passed by the first respondent after complying with the principles of natural justice. The entire exercise in this regard, culminating in the passing of a reasoned order, shall be completed within a period of three months from the date of receipt of a copy of this order.

The Writ Petition is, accordingly, disposed of. However, in the circumstances, without costs.

26-02-2008

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