

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTY FIRST DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE Dr. JUSTICE G.YETHIRAJULU

WRIT PETITION No. 15362 of 2004

Between:

T.Dasaradharami Reddy, S/o T.Gurava Reddy,
R/o 12-5-555A, S.K.D.Nagar, Tirupathi, Chittoor District

..... PETITIONER

AND

- 1 The Commissioner & Registrar of Cooperative Societies, Andhra Pradesh, Hyderabad
- 2 The Tirupathi Cooperative Bank Ltd. Tirupathi, rep.by its Managing Director
- 3 The Enquiry Officer-cum-Divisional Co-op Officer, Chittoor
- 4 The Divisional Co-op.Officer, Tirupathi, Chittoor District

.....RESPONDENTS

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 issue an appropriate Writ, Order or direction, more particularly a Writ in the nature of Mandamus, declaring the proceedings in TCB/ADMN/2004-2005 dated 28-06-2004 of the 2nd respondent as being illegal, arbitrary, violative of principles of natural justice and fair play and also violative of Articles 14, 16 and 21 of the Constitution of India and set aside the same.

Counsel for the Petitioner: MR.MEHERCHAND NOORI

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following:

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ORDER:

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The petitioner is working as a peon in the 2nd respondent Bank. An enquiry under Section 51 of the A.P.Cooperative Societies Act was conducted and during the said enquiry, it disclosed that the petitioner was appointed on the basis of a fake educational certificate. Consequently the 4th respondent issued proceedings dated 15.02.2002 directing the 2nd respondent to take action against the petitioner for removal from service and to file a criminal complaint against him for his mischief.

2. Consequent to the enquiry report submitted by the 3rd respondent, in the capacity of an enquiry officer, a show cause notice was issued to the petitioner by the 2nd respondent on 13.03.2002 requiring the petitioner to show cause as to why action should not be taken according to law, and why he should not be removed from service, and a criminal complaint should not be filed against him.

3. Aggrieved by the show cause notice, the petitioner filed an application before the Assistant Commissioner for Labour, Tirupathi under the provisions of Shops and Establishments Act and the application was returned by the Assistant Commissioner for Labour observing that the provisions of the said Act are not attracted. Pursuant to the return of the said application, the petitioner filed W.P.No.14118 of 2002 before this Court, questioning the said show cause notice. The writ petition was dismissed as withdrawn. Subsequent to the withdrawal of the writ petition, the petitioner filed a detailed representation on 21.08.2002 before the 2nd respondent contending that no enquiry was

contemplated before issuing show cause notice, and if any enquiry is conducted, it is only an enquiry contemplated under section 51 of the Act.

4. The petitioner contends that no charge sheet was issued to him before conducting enquiry, and the enquiry officer was appointed pursuant to the report under Section 51 of the Act. If any action is contemplated pursuant to the said enquiry report, a departmental enquiry has to be conducted by appointing an enquiry officer, after issuance of charge sheet, and after following the procedure for imposing major penalties. The petitioner further contends that after receipt of the explanation to the show cause notice, the 2nd respondent kept quiet for a period of two years, and ultimately issued proceedings dated 28.06.2004 placing him under suspension pending enquiry. The petitioner, being aggrieved by the suspension order dated 28.06.2004, approached this Court through this writ petition, seeking to declare that the proceedings dated 28.06.2004, issued by the 2nd respondent, as illegal, arbitrary and violative of principles of natural justice.

5. In a similar writ petition, covered by W.P.No.11203 of 2004, the learned single Judge of this Court, allowed the said writ petition and passed the following order on 23.07.2004:

“ Having regard to the fact that show cause notice was issued to the petitioner as far back as on 13.03.2002, it was not proper on the part of the third respondent to issue the impugned order placing the petitioner under suspension, after lapse of more than two years from the date of issuance of show cause notice. In so far as enquiry as regards the date of birth of the petitioner is concerned, it is open for the respondents to proceed with the same, without placing the petitioner under suspension.

In the result, the writ petition is allowed. The impugned order placing the petitioner under suspension, pending enquiry into the charges leveled against him, is quashed and set aside. The respondents shall complete the enquiry initiated against the petitioner in accordance with law expeditiously, after providing reasonable opportunity of hearing to him. No costs.”

I concur with the view expressed by the learned single Judge. The impugned order dated 28.06.2004, placing the petitioner under suspension, is set aside. The respondents are at liberty to conduct an enquiry against the petitioner according to rules and the provisions of the Act, and pass appropriate orders,

after giving opportunity to the petitioner, as expeditiously as possible.

6. The Writ Petition is, accordingly, allowed. No order as to costs.

Note:

Issue CC in 7 days.

B/o.

dsr/svs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the Tuesday,
Thirty first day of August, Two thousand and four.

To:

1. The Commissioner & Registrar of
Cooperative Societies, Andhra Pradesh,
Hyderabad.

2. The Managing Director,
The Tirupathi Cooperative Bank Limited,
Tirupathi

3. The Enquiry Officer-cum-Divisional
Cooperative Officer, Chittoor

4. The Divisional Cooperative Officer,
Tirupathi, Chittoor District

5. Two CCs to the Government Pleader for Cooperation,
High Court Buildings, Hyderabad (OUT)

6. Two CD copies.

