

HIGH COURT FOR THE STATE OF TELANGANA

W.P.No.3169 of 2014

Between:

The Fishermen Co Operative Society,
Sultanbad, Kalher Mandal,
Medak District. Rep. by its President
Sangaiah, S/o. Ellaiah, aged about 45 years,
R/o. Sultanbad Village, Kalher Mandal,
Narayanked Taluq, Medak District.

.. Petitioner

Vs.

The Government of Andhra Pradesh,
Cooperation Department, Secretariat
Hyderabad. Rep. by its Principle
Secretary and 21 others.

.. Respondents

DATE OF THE ORDER PRONOUNCED: **26.04.2023**

- | | |
|--|-----|
| 1. Whether Reporters of Local newspapers may be allowed to see the judgment? | No |
| 2. Whether the copies of judgment may be marked to Law Reporters/Journals | Yes |
| 3. Whether his Lordship wish to see the fair copy of the judgment? | Yes |

* **HON'BLE SRI JUSTICE J. SREENIVAS RAO**

+ W.P.No.3169 of 2014

% DATED 26th April, 2023

The Fishermen Co Operative Society,
Sultanbad, Kalher Mandal,
Medak District. Rep. by its President
Sangaiah, S/o. Ellaiah, aged about 45 years,
R/o. Sultanbad Village, Kalher Mandal,
Narayanked Taluq, Medak District.

.. Petitioner

Vs.

The Government of Andhra Pradesh,
Cooperation Department, Secretariat
Hyderabad. Rep. by its Principle
Secretary and 21 others.

.. Respondents

<Gist:

>Head Note:

! Counsel for the Petitioner : Sri O. Manohar Reddy

^Counsel for Respondents : Assistant Government Pleader for
Fisheries
Assistant Government Pleader for
Cooperation
Sri D. V. Shrikanth

? CASES REFERRED:

1.2004 (2) ALD 726 (DB)

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

W.P.No.3169 of 2014

ORDER:

This writ petition is filed seeking Writ of Mandamus declaring the order passed by the respondent No.3 in letter No.355/D/2012 dated 16.01.2014 as illegal, arbitrary and without jurisdiction.

2. Heard Sri Chakravarthy, learned counsel representing Sri O. Manohar Reddy, learned counsel for the petitioner, learned Assistant Government Pleader for Fisheries appearing for respondents No.2 to 4, learned Assistant Government Pleader for Cooperation appearing for respondent No.1, and Sri D. V. Shrikanth, learned counsel appearing for unofficial respondents No.5 to 22.

3. Learned counsel for the petitioner submits that the petitioner's society is registered under provision of Co-Operative Society Act. All the members of the petitioner's Society are fishermen by profession and are eking out their livelihood by doing fishing in the tanks located within the area of operation of the Society. He further submits that one D. Vital Muddi Raj also is claiming himself to be the Chief Promotor of Muddi Raj Fishermen, Mardi Village, Kalher Mandal, Medak District, filed

W.P.No.29919 of 2011, before this Court seeking a direction to the 3rd respondent to form new Fishermen Co-operative Society in Mardi Village, Kalher Mandal, Medak District. The said writ petition was disposed of on 10.11.2011, directing the respondent No.3 therein to take appropriate decision on the representation dated 14.07.2011, in accordance with law, within a period of three (03) months from the date of receipt of a copy of the order.

3.1. Thereafter, respondent No.3 passed order vide Lr.No.355/D/2011, dated 28.07.2011, directing the petitioner's society to admit the members mentioned in the said letter as a members of the petitioner's society, by duly passing resolution on or before 24.08.2012. Questioning the said order, the petitioner's society filed writ petition No.30252 of 2012 and the same was disposed on 26.09.2012. He further submitted that D. Vital Muddi Raj filed another W.P.No.1308 of 2013, questioning the action of the respondents No.2 and 3 therein, in not re-conducting the skill test for formation of a new Fisherman Cooperative Society in Mardi Village, Kalher Mandal, Medak District for the remaining members of the Fishermen community. During the pendency of the of the writ petition, the

skill test was conducted and the said writ petition was dismissed as infructuous.

3.2. He further submitted that respondent No.3 without following the due procedure as contemplated under the provisions of Telangana Cooperative Society Act, 1964 (hereinafter referred to as 'the Act' for brevity), passed the impugned proceedings vide Lr.No.355/D/2012, dated 16.01.2014, directing the petitioner's Society to provide membership to the unofficial respondents and the same is contrary to the provision of Section 19 (2-A) (2-B) and 3 of the Act.

4. Per contra the learned Assistant Government Pleader for Fisheries, submits that respondent No.3 after following the due procedure as contemplated under the provisions of the Act, issued the impugned proceedings dated 16.01.2014 directing the petitioner's society to provide membership to the unofficial respondents as they are qualified to get membership in the Petitioner's Society. She further submits that the total water spread area of the existing tanks of Sultanabad is 520.30 Hectares, whereas the total membership of the petitioner's society is only 170 members. As such there is availability for

inclusion of qualified fishermen as members in the petitioner's society.

5. Learned counsel appearing for the unofficial respondents submits that when the petitioner's society refused to consider the request of the unofficial respondents to provide membership, the unofficial respondents have rightly approached the official respondents by invoking the provisions of the act and 3rd respondent rightly issued the impugned proceedings on 16.01.2014, holding that unofficial respondents are eligible to include as a members in the petitioner's society.

6. I have considered the rival submissions made by the respective parties and pursued the material available on record. Admittedly, the Petitioner's Society is having total water spread area of 520.30 Hectares and the total membership of the society is only 170. The unofficial respondents have submitted application to the Petitioner's Society requesting them to provide membership in the Petitioner's Society as they are eligible to be included as members and also they comes within the definition of the Fishermen. When the petitioner's society refused to consider their requests, the unofficial respondents have approached respondents No.2 to 4. Respondent No.3 after following the provisions of Section 19 of the Act and also after

conducting skill test issued the impugned proceedings Lr.No.355/D/2012, dated 16.01.2014, directing the Petitioner's Society to provide membership to the 18 members who are unofficial respondents by including their share capital and admission as per the act. It is also undisputed fact that more than the sufficient water spread area is available to the Petitioner's Society to include the unofficial respondents as members in the society.

7. In *Fishermen Co-operative Society Kondair Village, Itkyal Mandal, Mahaboobnagar District v. Commissioner of Fisheries, Hyderabad and others*¹, the Division Bench of this Court held as follows in para No.10:

“The observations made by this Court in Badugu Giribabu's case (supra), in our considered opinion, are required to be understood so as to be in conformity with the provisions under Section 19 (2-A) of the Act. We are unable to subscribe to the view taken by the learned Single Judge that in the first instance the qualified individuals intending to enrol themselves as members of the co-operative societies are required to necessarily first approach the Co-operative Society itself and it is only after rejecting their applications such eligible persons are entitled to move to the Registrar to take steps under Section 19 (2-A) of the Act. A plain reading of Section 19(2-A) of the Act does not support the broad view taken by the learned Single Judge both in Badugu Giribabu's case (supra) and W.P.No.29772 of 1998. A cumulative reading of Section 19(2-A) and 19(3) of the Act would make it abundantly clear that persons seeking

¹ 2004 (2) ALD 726(DB)

admission as a member under the provisions of the Act, the rules and the byelaws, intending to become the members of such societies. It is open to such individuals either to directly apply to the society or have recourse to the procedure contemplated under Section 19(2-A) of the Act. Both are complementary to each other. In the circumstances, it cannot be held that a qualified person seeking admission as a member under the provisions of the Act has to necessarily first approach the society and only thereafter approach the Registrar under Section 19(2-A) of the Act”.

8. In the above judgment, the Division Bench of this Court, specifically held that as per the provisions of Section 19 (2-A) of the act, the registrar is having power to issue directions to include the members after following the procedure as contemplated under the provisions of the Act. In this instant case, also the unofficial respondents have approached the petitioner’s society requesting them to provide membership, when the petitioner’s society failed to consider request of the petitioners, they have approached the official respondents. The respondent Nos.3 and 4 after following the due procedure as contemplated under the provisions of the Section 19 of the Act, passed the impugned order dated 16.01.2014, directing the petitioner’s society to admit the unofficial respondents as a members in petitioner’s society by collecting the share capital and admission fee.

9. In view of the foregoing reasons as well as the law laid down by this Court, as stated supra that there is no illegality, irregularity or jurisdictional error in the impugned order passed by the respondent No.3, dated 16.01.2014, to invoke the jurisdiction of this Court under Article 226 of Constitution of India and the writ petition filed by the petitioner is liable to be dismissed. Accordingly, dismissed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this writ petition, shall stand closed.

JUSTICE J. SREENIVAS RAO

Dated: 26.04.2023

Note:

L.R copy to be marked: 'Yes'

TU

THE HONOURABLE SRI JUSTICE J. SREENIVAS RAO

W.P.No.3169 of 2014

Dated: 26.04.2023

Note:

L.R copy to be marked: 'Yes'

B/o

tu