

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

**OA/021/47/2018
Date of Order: 14.09.2018**

Between:

P. Damodar Naidu,
S/o. Late Damodar Naidu,
Aged about 57 years,
Occ: Assistant Accounts Officer,
O/o. Principal Accountant General (A&E),
Telangana, Saifabad,
Hyderabad and
Managing Committee Member,
AG Office Cooperative Housing Society,
PAG Office, Saifabad,
Hyderabad.

.... Applicant

AND

1. Union of India rep. by
Comptroller and Auditor General of India,
New Delhi.
2. The Principal Accountant General (A&E),
Telangana, Saifabad, Hyderabad.
3. The Deputy Accountant General (Admn),
O/o. Principal Accountant General (A&E),
Telangana, Saifabad, Hyderabad.

.... Respondents

Counsel for the Applicant : Dr. A. Raghu Kumar

Counsel for the Respondents : Mrs. K. Rajitha, Sr. CGSC.

CORAM :

THE HON'BLE MR. JUSTICE L. NARASIMHA REDDY, CHAIRMAN

THE HON'BLE MR. B.V. SUDHAKAR, MEMBER (A)

ORAL ORDER

(Per Hon'ble Mr. Justice L. Narasimha Reddy, Chairman)

The applicant was elected as Managing Committee Member of the 'Accountant General's Office Cooperative Housing Society Limited, Hyderabad', for short - the Society in the year 2013. Along with him certain office bearers were also elected. The 3rd respondent herein issued a Memorandum dated 19.12.2017 pointing out the issuance of an earlier Memorandum and the reply dated 06.12.2017 submitted by the applicant and ultimately directing the applicant to resign from the post of Managing Committee Member of the Society within 7 days of receipt of the Memorandum. It is also pointed out that in case the applicant fails to do that, disciplinary proceedings would be initiated against him as per the CCS (CCA) Rules, 1965. The said Memorandum is challenged in this O.A.

2. The applicant contends that the Society was formed several decades ago and on the basis of certain complaints said to have been received by the respondents from various quarters, the impugned Memorandum was issued to him. He contends that it was not necessary to seek sanction for holding of

elective post in view of Rule 15(2) of the CCS (Conduct) Rules. He submitted explanation and the impugned Memorandum was issued on the one hand refusing to recommend his name to Comptroller and Auditor General of India for approval of his candidature as an elected member of the Society and on the other hand requiring him to resign the post. It is also alleged that the impugned Memorandum is without jurisdiction.

3. The O.A. is contested by the Respondents by filing reply stating inter-alia that large number of complaints have been received and even news have been published in the Press to the effect that certain irregularities are taking place in the Society and taking note of all the events, the impugned Memorandum was issued requiring the applicant to resign so that the name of the A.G's Office is not tarnished.

4. We have heard Dr. A. Raghu Kumar, learned counsel for the applicant and Mrs. K. Rajitha, learned Senior Central Government Standing Counsel appearing for the Respondents in detail.

5. Through the impugned order, the 3rd Respondent required the applicant to resign the post of Managing Committee Member of the Society. Though the provision for exercising this power is not mentioned, it is obviously Sub Rule 2 of Rule 15 of CCS (Conduct) Rules. While Rule 15(1) prohibits certain activities on the part of the Government Servant without sanction, Sub Rule (2) of Rule 15 permits certain activities for the Government Servants without permission of the Government.

6. The Society was formed several decades ago and in the successive elections, the employees of A.G's Office get elected to one post or the other. The record does not disclose that at every election permission was either sought or was accorded.

7. The Rule 15(2), apart from permitting certain activities without previous sanction of the Government, confers powers upon Government to require an elected employee to resign from such office. Proviso (ii) to Rule 15(2) (d) & (e) makes this aspect very clear.

8. A perusal of the said proviso makes it clear that the power under the provision can be exercised only when it is found that the continuance of the employee in such an office is proved detrimental to the interests of the Government. Sometimes, if the employee is not able to devote his attention to the official duties or where he is found to have misused the name of the organisation, the specific act of illegality should be mentioned and it is only thereafter, that the employee can be required to discontinue from the office. No such exercise was undertaken in this case. If any irregularities are occurring in the Society, it is for the Board to take necessary steps. If, on the other hand, the name of A.G's Office is in any way, tarnished on account of the activities of the Society, necessary communication in this behalf can be

made to the Registering Authority. There is no legal basis for the impugned order. The same is accordingly set aside. The O.A. is allowed.

9. In case the applicant is found to be acting against the Conduct Rules, it shall be open for the respondents to take steps as per the relevant rules and law. There shall be no order as to costs.

(B.V.SUDHAKAR)
MEMBER (A)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

/pv/