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**IN THE HIGH COURT OF ANDHRA
PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

TUESDAY, THE 18th DAY OF AUGUST 2026

PRESENT

THE HONOURABLE SRI JUSTICE D RAMESH

THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA

THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM

WRIT PETITION NO: 18636 OF 2009

Between:

1. Ande Veera Venata Satyanarayana, S/o. Late Sri Ande Raghava Rao President, Vatlavanipalem Primary Agricultural Coop. Credit society Ltd., Vatlavanipalem, Mogalturu Mandal,
2. Bokka Peddiraju, S/o. Ramana Member, Vatlavanipalem Primary Agricultural Coop. Credit society Ltd., Vatlavanipalem, Mogalturu Mandal,
3. Palaparthi Mahalashmi, W/o. SRiramulu Member, Vatlavanipalem Primary Agricultural Coop. Credit society Ltd., Vatlavanipalem, Mogalturu Mandal,

4. Yalla Venkata Muthyam, S/o. Venkanna Member,
Vadlavanipalem Primary Agricultural Coop. Credit society Ltd.,
Vadlavanipalem, Mogalturu Mandal,
5. Kandulapati Venateswara Rao, S/o. Maniyalu Member,
Vadlavanipalem Primary Agricultural Coop. Credit society Ltd.,
Vadlavanipalem, Mogalturu Mandal,
6. Allam Mukteswara Rao, S/o. Manikyalu Member,
Vadlavanipalem Primary Agricultural Coop. Credit society Ltd.,
Vadlavanipalem, Mogalturu Mandal,

...Petitioners

AND

1. The Government of A P, Rep. by its Secretary, Department of
Cooperation, Secretariat, Hyderabad.
2. The DEputy Registrar of Cooperative Societies, Bhimavaram,
WEst Godavari District.
3. The SubDivisional cooperative Officer, Narsapur, WEst
Godavari District.
4. The Assistant Registrar No I, O/o. Sub-Divisional Cooperative
Officer, Narsapur, West Godavari Dist.-cum- Chairperson,
Person-in-Charge Committee, Vadlavanipalem Primary
Agriculture Cooperative Credit Society Ltd., Vadlavanipalem,
Magalturu Mandal,
5. The Branch Manabger District Cooperative Central Bank,
Branch Magalturu, Mogalturu, West Godavari Dist.-cum- Person,

Person-in-Charge Committee, Vatlavanipalem Primary Agriculture Cooperative Credit Society Ltd., Vatlavanipalem, Magalturu Mandal,

6. Vatlavanipalem Primary Agricultural Cooperative Credit, Society Ltd., Vatlavanipalem, Mogalturu Mandal, WEst Godavari District Rep. by its Secretary.

7. Smt Ande Mutyalamma, W/o. Venkateswara Rao Member, Vatlavanipalem Primary Agriculture Cooperative Credit Society Ltd., Vatlavanipalem, Magalturu Mandal,

8. Sri Valavala Rama Rao, S/o. Ganga Raju Member, Vatlavanipalem Primary Agriculture Cooperative Credit Society Ltd., Vatlavanipalem, Magalturu Mandal,

9. Sri Ande Rama Krishna, S/o. Lashmi Narsaiah Member, Vatlavanipalem Primary Agriculture Cooperative Credit Society Ltd., Vatlavanipalem, Magalturu Mandal,

10. Sri DEvireddy rishnaji, S/o. Surya Rao Coopted Member, Vatlavanipalem Primary Agriculture Cooperative Credit Society Ltd., Vatlavanipalem, Magalturu Mandal,

11. Smt Yadla Dhanalashmi, W/o. Subba Rayudu Member, Vatlavanipalem Primary Agriculture Cooperative Credit Society Ltd., Vatlavanipalem, Magalturu Mandal,

12. Sri adali Veera Mohana RAo, S/o. Narasimha Murthy Member, Vatlavanipalem Primary Agriculture Cooperative Credit Society Ltd., Vatlavanipalem, Magalturu Mandal,

13. Sri Gundabathula Narayana RAO, S/o. Satyanarayana Member, Vadlavanipalem Primary Agriculture Cooperative Credit Society Ltd., Vadlavanipalem, Magalturu Mandal,

...Respondents

Counsel for the Petitioners: P RAJAGOPAL RAO

**Counsel for the Respondents: A.CHIDANANDESWARA RAO
(A C RAO)**

Counsel for the Respondents: GP FOR COOPERATION

The Court made the following:

THE HONOURABLE SRI JUSTICE D.RAMESH
THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA
AND
THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM
WRIT PETITION No.18636 of 2009

ORDER: (Per Hon'ble Sri Justice D.Ramesh)

By order dated 17.09.2009, the learned Single Judge has referred the matter to Division Bench based on the observations made by the Division Bench in ***Pamarthy Veeraswamy v. Collector (Co-Operation), Krishna District at Chilakalpudi***¹ and also ***Y.Venkata Rama Rao v. Dy. Registrar of Co-operative Societies, Nuzvid, Krishna District***² and after going through the language of Sections 32(7) and 34(1) of the Andhra Pradesh Co-operative Societies Act, 1964 (for short, 'the Act') read with Rules 23-AAA(3), (4) and (5) of the Andhra Pradesh Co-operative Societies Rules, 1964 (for short, 'the Rules') and subsequently, the Division Bench by order dated 17.11.2009 has referred the matter to the Full Bench with the following questions:

- (a) *Whether on the facts and circumstances of the case, a notice and opportunity is mandatory before any*

¹ AIR 1986 AP 134

² (1998) 2 ALD 14

such exercise of power of appointing a person-in-charge?

- (b) *Whether the Rule 23-AAA of the Rules framed thereunder envisages certain action and procedure therefore is well within the rule making power as conferred under the Act?*

Accordingly, the matter is placed before the Full Bench.

2. To answer the above questions, the following provisions of the Act and Rules are relevant:

The Andhra Pradesh Co-operative Societies Act, 1964:

“Section 30. Ultimate authority of society:- (1)(a) *Subject to the provisions of this Act, the rules and the bye-laws, the ultimate authority of a society shall vest in the general body :*

Provided that nothing in this clause shall affect the exercise by the committee or any officer of a society or any power conferred on such committee or officer by the Act, the rules or the bye-laws.

(b) Notwithstanding anything in clause (a), where the area of operation of a society is not less than such area as may be prescribed, or where the society consists of not less than such number of members as may be prescribed, the society may and if so directed by the Registrar shall provide in its bye-laws for the Constitution of smaller general body designated as the representative general body consisting of such number of members of the society as may be specified

in and elected in accordance with, the rules, to exercise all or any of the powers of the general body except the power to conduct elections of members of the committee as may be specified in the bye-laws; and thereupon any reference in this Act to the general body meeting thereof shall be construed as a reference to the representative general body or its meetings :

Provided that the representative general body shall not alter any provision in the bye-laws relating to its Constitution or powers.

(c) The exercise of any power by representative general body shall be subject to such restrictions and conditions as may be specified in the rules or the bye-laws,

(2) Subject to the other provisions of this Act, the following matters shall be dealt with by the General Body in the manner prescribed-

(i) election and removal of members of the committee and members;

(ii) annual report to the Registrar ;

(iii) consideration of the audit report and the annual service;

(iv) disposal of the net profits ;

(v) amendment to bye-laws ;

(vi) expulsion of a member ;

(vii) approval of the annual budget of income and expenditure ;

(viii) affiliation of the society to the financing bank or other societies ;

(ix) election of delegates to the financing Bank or other societies.

Provided that where a delegate is not elected under this item the President shall be the delegate to the Financing Bank or other society until a delegate is elected ;

Provided further that where a President is elected by direct election, he shall represent the society as a delegate to the Financing Bank or other Societies.

(x) review of the loans and advances sanctioned to or the business done with the society by the members of the committee or their such near relatives as may be prescribed, and report to the Registrar about any default in the recovery of the amounts due to the society.

Provided that the general body may delegate, by a resolution, to the committee its powers in respect of items (viii) and (ix) or to withdraw by a resolution such powers at any time.

(xi) appointment of two internal auditors from among its members other than the members of the committee ;

(xii) consideration of the report of the internal auditors appointed by it.

(xiii) contribution to Cooperative Education Fund;

- (xiv) *consideration of report of inquiry under Section 51 or Inspection under Section 52 or under Section 53 or Special report of Audit under Section 50;*
- (xv) *decision on bad debts considered irrecoverable;*
- (xvi) *management of deficits in stocks or cash;*
- (xvii) *appointment of members of supervisory council, entrustment of duties to the supervisory council and consideration of its reports;*
- (xviii) *decision on transfer of assets and liabilities, on division or amalgamation;*
- (xix) *review of attendance of Committee members;*
- (xx) *review of membership;*
- (xxi) *review of the report on the disqualification of the members and the committee members;*
- (xxii) *review of all overdue loans and defaulters;*
- (xxiii) *approval of the staffing pattern, pay and other allowances of the employees of the society and contingencies, subject to the availability of administrative and contingent fund and approval of the Registrar.*

Section 32. General meetings and committee meetings:-

(7)(a)(i) *If there is no committee or in the opinion of the Government or, the Registrar, it is not possible to call a general meeting for the purpose of conducting election of members of the committee, the Government, in respect of*

such class of societies as may be prescribed and the Registrar in all other cases may appoint a person or persons to manage the affairs of the society for a period not exceeding six months and the Government may, on their own and the Registrar with the previous approval of the Government, extend, from time to time, such period beyond six months, so however that the aggregate period include the extended period if any, shall not exceed three years.

Section 34. Supersession of the committee:-

(1) If in the opinion of the Registrar, the committee is not functioning properly or wilfully disobeys or fails to comply wilfully with any lawful order or direction issued by the Registrar under this Act or the rules, he may, after giving the committee an opportunity of making its representation, by order supersede the committee from a specified date; and appoint either a person (hereinafter referred to as the special officer) or a committee of two or more persons (hereinafter referred to as the managing committee) to manage the affairs of the society for a period not exceeding two years, specified in the order which period, may, at the discretion of the Registrar, be extended from time to time, so however, that the aggregate period shall not exceed three years.

Section 79A. Punishment for corrupt practices:—

(1) Where any officer of a society or an employee or a paid servant or any member of such society,—

(e) passes a meeting without proper quorum as valid, he shall be deemed to be guilty of a corrupt practice in relation to the society.

Section 130. Power to make rules:—

(1) The Government, may, by notification published in the Andhra Pradesh Gazette, make rules for carrying out all or any of the purposes of this Act for the whole or any part of the State and for any class of societies.

(2) Every rule made under this section shall immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiration of the session in which it is so laid or the session immediately following, both Houses agree, in making any modification in the rule or in the annulment of the rule, the rule shall thereafter have effect only in such modified form or shall be annulled, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

The Andhra Pradesh Co-operative Societies Rules, 1964

Rule 23. Quorum for meeting:— *(1) Save as expressly provided in the Act no general meeting shall be held or proceeded with unless there is a quorum as specified in the*

bye-laws provided that the bye-laws shall not specify quorum which is less than 1/10th of the total members.

(2) The quorum for a meeting of the committee shall be the majority of the total members of the committee.

Rule 23-A. Meeting called by Registrar:-

(3) Notwithstanding anything in the bye-laws of the society, any member or members of the committee may resign their seats by sending a letter of resignation by Registered Post or by tendering it in person to the Chief Executive Officer/President of the society and such resignation shall take effect from the date it is accepted by the Managing Committee

(4) In the event of absence of the President for more than a period of three months or death of President of a society, the powers and functions of the President shall devolve on the vice-president till election to the post of the President is held as per bye-laws.

(5) In the event of resignation of the entire Managing Committee or a majority of the Managing Committee, the Registrar of Cooperative Societies shall hold elections and till the new Managing Committee takes charge the Registrar may appoint person incharge or direct the Managing Committee to continue to discharge their functions till the elections are held and the new Managing Committee takes charge.”

3. The facts leading to above questions are as follows:

The writ petition has filed by the President of the Vatlavanipalem Primary Agricultural Co-operative Credit Society Limited, Vatlavanipalem, Mogalturu Mandal, West Godavari District, assailing the proceedings in Rc.No.857/2009-B dated 25.08.2009 and the consequential proceedings issued on the same day by the Deputy Registrar of Co-operative Societies, Bhimavaram, West Godavari District, on the ground of violation of principles of natural justice. On facts, the total number of members of the Managing Committee of the Society including the President are as follows:

- (1) Ande Veera Venkata Satyanarayana [1st petitioner]
- (2) Allam Mukteswara Rao [6th petitioner]
- (3) Kandulapati Venkateswara Rao [5th petitioner]
- (4) Sri Bokka Pedddi Raju [2nd petitioner]
- (5) Yalla Venkata Mutyam [4th petitioner]
- (6) Palaparthi Mahalakshmi [3rd petitioner]
- (7) Yedla Dhana Lakshmi [11th respondent]
- (8) Ande Mutyalamma [7th respondent]

(9) Ande Rama Krishna [9th respondent]

(10) Gundabathula Narayana Rao [13th respondent]

(11) Valavala Rama Rao [8th respondent]

(12) Kadali Veera Mohana Rao [12th respondent]

(13) Devireddy Krishnaji (Co-opted Member) [10th Respondent]

Due to some personal reasons, 7 members of the Committee have submitted their resignations and the said resignations were placed before the Managing Committee in terms of Rule 23-AAA of the Rules. Then resolution No.6 dated 21.08.2009 was passed saying that the decision with regard to the resignations would be taken after completion of the construction of the Society building by convening a General Body Meeting. But, the resigned members i.e., respondent Nos.7 to 13 in the writ petition expressed their dissent in the said resolution and the proceedings were sent to the 2nd respondent. The 2nd respondent without issuing any notice and without affording any opportunity of being heard has passed an order on 25.08.2009 cancelling the Managing Committee of the Society and appointing a person-in-charge. While assailing the said orders, the petitioners have taken a main ground that the said orders were

violation of principles of natural justice and the same were obviously passed under Section 34 of the Act, which deals with the Supersession of the Committee and Section 34 of the Act mandates that the Registrar shall issue notice and afford opportunity of hearing to the effected parties. Further, the 2nd respondent has one without jurisdiction accepted the resignations of the members by exercising the power under Rule 23-AAA(5) of the Rules without issuing any notice as per the mandate under Section 34 of the Act.

4. Heard Sri Akula Sri Krishana Sai Bhargav, learned counsel representing Sri P.Raja Gopala Rao, learned counsel for the petitioners and Sri Dammalapati Srinivas, learned Advocate General appearing for the State.

5. Learned counsel for the petitioners submitted that the facts are not in dispute and there is no necessity to decide the writ petition on facts. Hence, he made his submissions only with regard to the questions referred to the Full Bench. To answer the said questions, learned counsel has mainly relied on the observations made by the Division Bench in ***Pamarthy***

Veeraswamy's case (supra 1) and he placed reliance on the following paragraph Nos.4, 5 and 6:

"4. The order passed by the Registrar appointing the person-in-charge reads thus:-

"Whereas, the Secretary, Nuzvid Co-operative Agricultural Development Bank Lt., Nuzvid reported that the following seven Directors out of 11 tendered their resignations on 21-9-1983 and it is not possible to convene Board meeting with the remaining 4 Directors.

- 1. Sri Cherukuri Kutumbarao.*
- 2. Sri Guduru Sambasiva Rao.*
- 3. Sri Tummalapalli Laxminarayana.*
- 4. Sri Pinniboina Mallikarjunarao.*
- 5. Sri Devineni Umamaheshwararao.*
- 6. Sri Palaballa Venkiah.*
- 7. Sri Banavathu Chinabichchalu.*

And whereas in the letter read second above, the Deputy Registrar for Agricultural Development Banks, Vijayawada has reported that he also received the resignation letters on 24-9-83 from the same 7 Directors of the Nuzvid Agricultural Development Bank and that he had satisfied himself about the genuineness of the resignations. And whereas it is concluded that there is no possibility to convene the Board Meeting as the rest of 4 Directors cannot constitute quorum

for the meeting either to accept the resignations or to transact business of the Bank.

And whereas, there is no committee in the bank, as the remaining 4 directors cannot constitute quorum and cannot discharge the functions of the committee, as required under the provisions of the Act and as such there is no valid committee in the eye of the law. In the absence of any valid committee it is found necessary to provide management to run the business of the Nuzvid Co-operative Agricultural Development Bank;

Now therefore by virtue of powers vested in the me under Sec. 32(7) (a) of the A.P.C.S. Act, 1964 I hereby appoint the Divisional Cooperative Officer, Nuzvid as part time person-in-charge of the Nuzvid Agricultural Development Bank for a period of six months from the date of assumption of charge by the person-in-charge or till an elected Board of Directors assumes charge, whichever is earlier.

The part time person-in-charge so appointed shall work subject to the control of the undersigned and to such instructions or directions as he may issue from time to time, have power to exercise all or any of the functions of the Board of Directors and to take all such actions as may be required in the interest of the Bank."

5. A perusal of the aforesaid order passed by the Registrar would show that it was made on the basis on an assumption that there was no committee and that there was no possibility to convene the Board meeting after the resignations of the 7 directors and transact any business

because the remaining four Directors could not constitute quorum of the meeting either to accept the resignations or to transact business of the Bank. It must be noted that the conclusion of the Registrar that there was no committee of the Bank was an inference drawn by him from the fact that the remaining four Directors of the Committee could not constitute a quorum and could not therefore discharge the functions of the committee as required under the provisions of the act. It is for that reasons that he thought that there was no valid committee in the eye of the law. It was on that basis that he invoked Sec. 32(7) of the Act. The question thus arises whether this reasoning of the Registrar and this inference of the Registrar on the basis of which the impugned order had been made could be sustained. It is somewhat strange to say that a committee elected for a fixed period of three years was thought to have disappeared with the resignation of a few members. This reasoning did not take note of the continued existence of those members who survived the resignations. In the Act we find no warrant equating a non-functioning committee with a non-existing committee. A non-functioning committee exists but does not function while in the case of a non-existing committee the question of its functioning well or ill cannot arise. Clearly in this case there was a committee without quorum. We cannot therefore agree with the conclusion of the Registrar that there was no committee at all. In our view, only correct way of describing the situation is to say that there was a committee but it does not and could not function. If that were to be so Sec. 32(7) can have no application to such a situation. Section 32(7) will have application only when there

*is no committee. There are two **provisions of the Co-operative Societies Act** which deal separately with the two different types of situations above mentioned. Sec. 32(8) deals with committee at all while Sec. 34(1) deals with that situation when there is a non-functioning committee. These provisions which deal with two different situations should not be compared with one another. Where the affairs of the society had fallen by the way side due to the inept handling and improper functioning of the managing committee which is existing the Act holds such a committee responsible for mal-administration and provides for the exercise of correctional jurisdiction by the Registrar under Sec. 34(1) of the Act. The exercise of that correctional jurisdiction calls for giving of a notice and hearing to the committee. When the committee is held in such an inquiry guilty of malfunctioning the Act provides for supersession of such a committee. But where there is no committee at all and consequently the question of functioning well or ill cannot arise. Section 32(7) provides for the appointment of a person-in-charge in place of the Committee. In such a situation there can arise no question of notice or hearing being given to the committee. It is a pure question of filling up of a vacuum. These are two separate and distinct situations and are dealt with by two provisions which are separate and distinct. Section 34(1) provides for supersession of an existing committee and Sec. 32(7) provides for appointing someone in the place of the committee. The Registrar clearly erred in overlooking these two situations; Section 30(1)(a) of the Act vests the ultimate authority of a Society in the general body. Under Sec. 31 the general body of the society constitutes a committee in*

*accordance with the bye-laws and entrusts the management of the affairs of the society to such a committee. A committee so constituted in accordance with the bye-laws by the general body acquires authority to manage the affairs of the society for a term. Now that collegiate body once elected and called into being continues irrespective of the changes that it may undergo in its composition by the resignations of some or election of some others. These various provisions would show that under the Act the existence of a committee is dependent upon act of entrustment of management by the general body and not upon the exercise of the authority by the committee. A non-functioning Government is also a Government. It has the right to manage the affairs of the society during the term of its office. In this case the term of the members is three years. If they do not exercise the powers during these 3 years the committee for that reason cannot be said to have ceased to exist. It only means the committee is not functioning properly. Then the committee may be liable to be superseded under S. 34(1) of the Act. But a person-in-charge could not be appointed under S. 32(7) of the Act. These provisions have been enacted on the faith that those who have been elected to the committee as members would discharge their powers and perform their duties in good faith and act according to the letter and spirit of **A.P. Co-operative Societies Act**. When they betray that faith and confidence reposed in them, the Act provides for taking correctional disciplinary action under S. 34(1). The Section says:*

"If in the opinion of the Registrar the Committee is not functioning properly or willfully disobeys or willfully fails to comply with any lawful order or direction issued by the Registrar under this Act or the rules, he may after giving the committee an opportunity of making its representation, by order supersede the committee from a specified date; and appoint either a person (hereinafter referred to as the Special Officer) or a committee of two or more persons (hereinafter referred to as the managing committee) to manage the affairs of the society for a period, not exceeding two years."

6. Under that Section both for their commissions and commission the members of the committee are made to suffer the penalty of removal. It is for that reason the Registrar is given power to supersede the Committee and power to cut into the term of the validly elected committee. But all this is for reasons of bad behaviour of the members of the Committee. That is why the statute provides that before superseding such an elected body for reasons of misbehaviour for Registrar should give an opportunity to the Managing Committee. The Registrar should set out his reasons in the notice and call upon the committee to explain. The committee may be able to explain its failure to function properly. The Registrar should consider such explanation offered by the committee and then take appropriate action. The essence of the whole matter is that no action can be taken by the Registrar under S. 34(1) except for the behavioural reasons of the Committee. But the type of situation which is dealt with under S. 32(7) of the Act is

wholly different. S. 32(7) deals with a situation when there is no committee at all. When there is no committee the question of its behaviour being good or bad cannot arise at all. A non-existing body cannot function either well or ill. Now the question of giving any notice to the Committee cannot arise in that situation. Under S. 32(7) the Registrar is therefore given power to appoint a person or persons to manage the affairs of the society for a period not exceeding six months and fill up the vacuum created by the non-existing committee. This power is to be used only if there is no committee and if in the opinion of the Registrar it is not possible to call a general meeting for the purpose of conducting elections of the members of the committee. The power under S. 32(7) cannot be exercised if elections to the committee can be conducted. That shows that there is no committee. If there is a committee no question of holding elections can arise. This is clearly conclusive of the matter. It is therefore clear that the situation sought to be repaired under S. 32(7)(a) which empowers the Registrar to appoint a person to manage the affairs of the Society is one where there is no elected committee which is in existence but is not functioning properly. This language difference in our opinion is decisive in showing that the Registrar has acted in the present case wrongly under S. 32(7) of the Act. The words "if there is no committee" would only mean and can only mean that there is no legally constituted committee. Those words cannot mean that there is no properly functioning committee. A committee which is not properly functioning does not cease to exist. Unfortunately a bad man does not cease to exist. In other words under S. 32(7)(a) the

Registrar cannot appoint a person to manage the affairs of the society on the ground that a validly constituted committee which is in existence is not capable of functioning properly. Such a situation when a committee which is in existence is not functioning properly can only be dealt with under S. 34(1) of the Act. As giving of notice to the committee in existence is a condition precedent for the exercise of this power under S. 34(1) of the Act and as it is not done here, the order has to be set aside. Mr. Subba Reddy did not seriously dispute this. But he argued that the procedure under S. 34 is rather dilatory and cumbersome as it requires notice to be given. But the entire working of democracy is rather slow and sometimes cumbersome. It involves wide consultations with different interests and different views. That is one of the reasons which the dictators give out for its over throwal. But democracy is a way of life with us and an article of faith, our constitutional creed. Further the termination of the term of an elected body of persons on the grounds peculiar to its functioning is such a serious matter for the principles of natural justice to be held by judicial interpretations to be inapplicable. Such drastic powers cannot be allowed to be exercised following any should circuit methods. As a fact it does not appear to us to be correct either that resorting to the procedure prescribed under S. 34(1) would involve such long delay. In view of the above, we hold that the Registrar of co-operative Societies acted in this case without authority of law in invoking his powers under S. 32(7) of the Act and appointing a person in-charge without notice to the committee. The order cannot be supported. The observations made by a

*Division Bench of this Court consisting of Madhava Reddy C.J. and Upendralal Waghray J. In W.A. Nos. 1045 and 1037 of 1983 dated 11-11-1983 though made in an appeal arising against a Miscellaneous Order and therefore may not be regarded as decisive fully support this view of ours. But the Judgment of Kondaiah J. (as he then was) reported in **Syed Qutbuddin Qudri v. State of Andhra Pradesh, (1971) 2 Andh WR 172** clearly took a contrary view from the one which we have taken. Kondaiah, J. equated a non-functioning committee with non committee, Kondaiah, J. examined the matter from a pragmatic view. He held from a practical point of view that there is no difference between a non-functioning committee and no committee. This may be partly true. We find that only in the matter of non-functioning there is similarity between the two situations. Beyond that there are vital differences between the situations. In concept and consequence the two situations are clearly different. We agree that a statute should not be interpreted without reference to its consequences. But we think conveniences and consequences alone should not determine the meaning which we should attribute to the plain words used in a statute. Particularly where the statute deliberately enacts two different sections and adopts two different modes to deal with two different situations and the language used for that purpose is rather clear, we cannot over look these differences. In this case the statute draws a distinction between the situation dealt with under S. 34(1). The conclusion of Kondaiah, J. overlooks these distinctions and renders S. 34(1) almost purposeless. Not only the consequences that flow from the applications of the different*

*sections are different but the nature of the rights effected and the persons whose rights are to be affected are also different. Considering the fact that we are dealing with the rights of an elected body and considering that the rights of such an electoral body are expressly dealt with under S. 34(1) of the Act and believing that over interpretation is no less pragmatic we venture to disagree with Kondaiah, J. The Judgment of Kondaiah, J. does not take note of these different statutory schemes at all. Kondaiah, J. Does not take account of the fact that this reasoning would permit the over throw of the rights of the elected members of the Managing Committee without any notice. Such a situation should normally call for prior notice. See **Durayappan v. Fernando, (1967) 2 All ER 152**. That is why the Act provided for it by S. 34(1) of the Act. For these reasons we hold *Syed Qutbuddin Qudri v. State of Andhra Pradesh, (1971-2 Andh WR 172) (supra)* case is wrongly decided.”*

6. As the facts are also identical in the above said matter, the Court has taken a view that the conclusion of the Registrar that there was no Committee at all is not correct and held that there was a Committee but it did not and could not function. If that were so, Section 32(7) of the Act would have no application in such circumstances, Section 32(7) of the Act would apply only when there is no Committee. The Bench has considered both the provisions i.e., Section 32(7) and Section 34(1) of the Act. Further, the Court has also dealt with the issue and held that

Section 32(7) of the Act deals with a situation where there is no Committee at all and for any other reasons the Committee has to be superseded by another Committee or a person-in-charge is appointed. In such circumstances, issuance of notice is mandatory.

7. Based on the above observations of the Division Bench, learned counsel for the petitioners submitted that according to Section 30 of the Act, the ultimate authority of a society vests with the general body and as per Sub-Section (2) of Section 30 of the Act, General Body shall deal with review of attendance of Committee members, review of membership and review of the report on the disqualification of the members and the Committee members and when the Committee/General Body is the sole and ultimate authority of the society, if the respondents/Registrar wants to supersede such Committee, the only provision available under the Act is Section 34(1) of the Act. On a careful reading of Section 34(1) of the Act, if any committee has to be superseded by appointing either a person or a committee of two or more persons to manage the affairs of the society, such supersession can be effected only after giving the committee an opportunity of

making its representation. Accordingly, as observed by the Division Bench in the above referred matter, once there is an existing committee in terms of Section 30 of the Act, if the authority intends to supersede the said committee, it has to follow the mandate prescribed under Section 34 of the Act by issuing a notice and affording an opportunity of hearing.

8. He further contended that there is no option available to the authorities except to exercise the power under Section 32(7)(a)(i) of the Act. The said provision is applicable only if there is no Committee, then only the authorities have to exercise the power under Rule 23-AAA(5) of the Rules. In the facts of the scenario, the question of exercising the power under Section 32(7) of the Act by invoking Rule 23-AAA(5) of the Rules would not arise.

9. In support of his contention, learned counsel has relied on the observations made in ***Awari Devanna v. Divisional Co-operative Officer***³, wherein it was held at paragraph No.4 as follows:

“4. If a member of a committee incurs any disqualification, Rule 24 of the rules framed contemplate an enquiry preceded by a notice entitling the said member to file

³ 1994 AIR AP 357

objections. Such member is also entitled for an opportunity to be heard. If that be the case, I cannot countenance a contention that for an order to be passed of the instant nature, no opportunity is necessary to the petitioner. May be, the statutory provision is silent, but by that, it cannot be concluded that the principles of fair play need not be followed. The committee is elected for a specific term and has got a vested right under law to hold the office for the said tenure. But, that can be terminated prematurely for the grounds stated under the statute. If that be so, the vested rights of the committee are being divested even before the expiry of the term on stated grounds and when such is the order passed by the State or its servants, to the prejudice of the petitioner in derogation of his said rights, it can only be made in accordance with the basic rules of natural justice which includes fair play. Rules of natural justice are not rules embodied always expressly in a statute or in rules framed thereunder. They may be implied from the nature of the duty to be performed under a statute. What particular rule of natural justice should be implied and what its context should be, depends upon the framework of the law under which the enquiry is held. If the stated provisions of the A.P. Co-operative Societies Act are silent as to the procedure to be adopted for ousting the elected committee prematurely as happened in the instant case, the power should be exercised only after due enquiry in accordance with the principles of natural justice. As the same is not followed in the instant case, I set aside the impugned order and direct the respondents to issue a notice to the President and all the members of the managing committee by specifying a

minimum period of 7 clear days from the date of service of notice for filing replies and then consider the same. Should the said office bearers require a personal hearing, the same should also be given. The decision afresh shall be taken only after due observance of procedure stated supra.”

10. Learned Advocate General appearing on behalf of the State submitted that there is no ambiguity either in the Act or in the Rules. The statute is very clear and the legislature has taken due care to suit the different situations. Primarily his contention is that Section 34(1) of the Act operates in an entirely different context. On a plain reading of Section 34 of the Act, when in the opinion of the Registrar, if the Committee is not functioning properly or willfully disobeys or fails to comply willfully with any lawful order or direction issued by the Registrar and if the Registrar intends to initiate any consequential action for supersession of the Committee by appointing a person-in-charge or a Committee of persons to administer the affairs of the Society, when such action being drastic in nature and involving the determination of certain factual aspects, the section takes care to afford an opportunity of hearing to the Committee before taking such action against it. Section 32 of the Act operates in a different context. Section 32 of the Act deals with general body

meetings and Committee meetings, while Section 32(7)(a)(i) of the Act deals with when in the opinion of the Government or the Registrar, it is not possible to call a general body meeting for the purpose of conducting election of members of the committee, the Government or the Registrar may appoint a person-in-charge to manage the affairs of the society for a period not exceeding six months or till the elections. Hence, the statute has made a clear distinction between the two situations. Section 34 of the Act deals with non-functioning of the Committee and the Registrar's power to appoint a person-in-charge in such circumstances and Section 32(7) of the Act deals with a situation where it is not possible to call for a general body meeting. Hence, the two provisions cannot be treated as identical, as they address two different situations and the Rules have prescribed separate provisions. Rule 23 of the Rules enables the authorities to take action/steps to deal with a situation where the entire Committee or a majority of the members of the Managing Committee have resigned.

11. Learned Advocate General further contended that in order to deal with the situation under Section 32(7) of the Act, a quorum

is also mandatory. If any Committee calls for a meeting without having a proper quorum, such an act is punishable and should be declared as a corrupt practice as per Section 79(A)(1)(e) of the Act. Once a criminal consequence follows if any meeting is called without having a quorum, as per Rule 23(2) of the Rules, the quorum for a meeting shall be majority of the total members of the Committee. In such circumstances, if the majority members of the committee resigns in terms of Rule 23(2) of the Rules, the authority has no other option except to appoint a person-in-charge in terms of Rule 23-AAA(5) of the Rules.

12. Learned Advocate General further submitted that in fact the observations made by the Division Bench in **Pamarthy Veeraswamy's** case (supra 1) are prior to insertion of Rule 23-AAA of the Rules and subsequently, the Rules were amended by inserting Rule 23-AAA of the Rules. In harmonious reading of Section 79(A)(1)(e) read with Section 130 of the Act, the legislature has power to make Rules envisaging an action and procedure to suit the circumstances. Hence, Rule 23-AAA of the Rules is well within the Rule making powers under Section 130 of the Act. Further, learned Advocate General has submitted that

when there is no ambiguity in the statute, it has to be read in toto and it should be intent of the legislature.

13. In support of his contention, he relied on the observations made by the Hon'ble Apex Court in ***Ansal Properties and Industries Limited v. State of Haryana***⁴, wherein it was held at paragraph Nos.39, 40 and 42 as under:

“39. If the legislature had intended that the licensee is required to transfer the land and also to construct the buildings on it or to make payment for such construction, the legislature would have made specific provisions laying down such conditions explicitly and in clear words in which event the provisions would have been worded in altogether different words and terms. It is a well settled principle in law that the court cannot read anything into a statutory provision which is plain and unambiguous. The language employed in a statute is determinative factor of legislative intent. If the language of the enactment is clear and unambiguous, it would not be proper for the courts to add any words thereto and evolve some legislative intent, not found in the statute.

40. In Ganga Prasad Verma (Dr.) v. State of Bihar [1995 Supp (1) SCC 192], it has been held that:

“5. where the language of the Act is clear and explicit, the Court must give effect to it, whatever may

⁴ (2009) 3 SCC 553

be the consequences, for in that case the words of the statute speak the intention of the legislature.”

42. The responsibility regarding construction of community centres and other community buildings could be discharged by adopting any of the three options as mentioned hereinbefore and each one of such options is an independent option and one cannot be connected and related with the other. We cannot read the provision relating to construction at the own cost of the developer the schools, hospitals, community centres and other community buildings on the land set apart for this purpose, into an independent alternative provision relating to transfer of such land to the Government free of cost. The aforesaid option given to the developer to construct the community centres and other community buildings at its own cost is when he can utilize himself to manage it. Therefore, we cannot read the aforesaid provision in the manner sought to be read by Mr. Chaudhari, for reading by adding certain words in the aforesaid manner does not appear to be the intention of the legislature while enacting the aforesaid legislation, for otherwise the legislature would have explicitly said so in the body of the main part of the section itself.”

14. In **S.Seetha Ramaiah Naidu v. Ongole Co-operative Bank Ltd.**⁵, it was held at paragraph Nos.17, 18 and 19 as under:

“17. The word "quorum" denotes the number of members of (or?) any body of persons whose presence is requisite in

⁵ AIR 1974 AP 49

order that business may be validly transacted by the body and that its acts may be legal. The quorum is thus the foundation for the validity of the meeting.

18. In Narayandas Shriram Co. v. Shangli Bank Ltd..(AIR 1966 SC 170) the Supreme Court held:

".....If the interested Director votes and without his vote being counted, there is no quorum, the meeting is irregular."

19. The principle that is deducible from this decision is that there cannot be a valid meeting if there is no quorum."

15. On perusal of the facts, it discloses that the submission of resignations by the majority members were not in dispute. On perusal of the resolution dated 21.08.2009 placed along with the writ petition it discloses that the minority members have deferred acceptance of resignations submitted by the directors and the majority members have resolved acceptance of resignations and the same was forwarded to the authority in terms of the Act. Even on perusal of the orders passed by the Deputy Registrar dated 25.08.2009 it clearly discloses that 7 members of the Managing Committee out of 13 Members have resigned and accordingly, a meeting was convened on 21.08.2009 at 2:00 P.M. and resolved vide resolution No.6 dated 21.08.2009 and based on the resolution the authority on its opinion found shortfall of

majority in the Managing Committee of the Society and opined that it was not possible to conduct board meeting for want of quorum. Hence, he exercised the powers under Rule 23-AAA(5) of the Rules and cancelled the Managing Committee. Accordingly, on the same day by exercising the powers under Section 32(7)(A) of the Act, the Deputy Registrar has appointed a persons-in-charge committee with the Assistant Registrar No.1, Office of Sub-Divisional Co-operative Officer, Narasapur as Chairperson and the Branch Manager, District Co-operative Central Bank, Branch Mogalturu as person to manage the affairs of the petitioner Co-operative Society.

16. On perusal of the above proceedings, it clearly indicates that there is no possibility to call for a general body meeting for conducting of elections of members of the Committee. Definitely, the circumstances narrated in the impugned proceedings clearly suits the circumstances enumerated in Section 32(A)(1) of the Act. If the facts narrated in the impugned orders are taken into consideration, absolutely there is no quorum in terms of Rule 23(2) of the Rules. Where any officer of a society or an employee or a paid servant or any member of such society without having a

quorum if any meeting is called or any business is transacted, he has to face penal consequences in terms of Section 79(A)(1)(e) of the Act. In the said circumstances, for smooth functioning of the Society, the authority has no other option except to exercise the powers under Rule 23-AAA(5) of the Rules.

17. Resignation of the Managing Committee or majority members the continuity of governance in the Society is legal impediment and the Registrar of Co-operative Society typically has the authority to oversee the election and appoint a person-in-charge to ensure the society remains operational during the transit period. The appointment of a person-in-charge in the interregnum period intended to maintain the functioning of the Society. For interim arrangement of appointing a person-in-charge is not a permanent arrangement.

18. Rule 23-A of the Rules specifically outlines the process of appointing an interim individual or a Committee, which must be followed according to the provisions set out in the Andhra Pradesh Co-operative Societies act.

19. Section 32(7) of the Act pertains to specific legal frame work or rules where the notice requirements elaborated. The

language of this provision should be carefully examined to determine even explicitly state that a notice is mandatory. Generally, the statute outlines clear pre-requisites for action, such as required a notice or opportunity of before taking a particular action or steps. Similarly, Rule 23-AAA of the Rules outlines the administration of procedure. The rule specified that its context within the broader regulatory framework is essential in incorporating its applicability. If the rule stipulates that notice is necessary for compliance, such a requirement becomes obligatory. To ascertain whether the notice contemplated under Section 32(7) of the Act or Rule 23-AAA of the Rules is mandatory, it is necessary to consider the exact wording of the provision and the legislature intent.

20. Power conferred under Section 32(A) of the Act and Rule 23-AAA(5) of the Rules addresses situations involving a governance vacuum, minimum necessary intervention, voluntary relinquishment of office and the interim administrative non-punitive appointment of a person-in-charge.

21. The underlying rational in the said provision is to ensure the smooth functioning and to prevent administrative collapses of

the society requiring formal notice and an opportunity of hearing in such emergent situations would often be impractical, redundant or counterproductive to the primary objective of restoring governance and protecting the interests of the Society. One should understand that the power is exercised to preserve the Society and not to penalize it. Thus, the exercise of such power falls within the established exceptions to the direct application of natural justice for urgent and purely administrative interim measures.

22. While dealing with the said situation, the Court has to take into consideration the intention of the legislature. The statute has to be considered according to the intent of those that make it. If a statutory provision is open to more than one interpretation, the Court has to choose that interpretation which revised the true intention of the legislature. When question arises to the meaning of a provision in a statute, it is appropriate to read the provision in its context. The context here means the statute as a whole by using the context in its wider sense. The words of **Tindal, C.J.** in

Sussex Peerage case was extracted in **State of Maharashtra v. Nandet Prabhani Operators Sangh**⁶ with the following words:

“If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such cases best declare the intent of the lawgiver.

23. Following the said orders, the Hon’ble Apex Court in **State of Uttar Pradesh v. Vijay Anand Maharaj**⁷ has held that when a language is plain and unambiguous and admits of only one meaning no question of construction of a statute arises, for the Act speaks for itself. The results of the construction are then not a matter for the court, even though they may be strange or surprising, unreasonable or unjust or oppressive. Further an identical issue was cropped up and the same was considered by the Hon’ble Apex Court in **K.B.Nagpur, M.D. (Ayurvedic) v. Union of India**⁸, wherein it was held as follows:

“16. It is the former situation which is intended to be protected by the challenged words of Section 7 of the Act. The legislative intent is clear that there cannot be a vacuum

⁶ (2000) 2 SCC 69

⁷ AIR 1963 SC 946

⁸ (2012) 4 SCC 483

in the working of a statutory body and it cannot be rendered non-existent even for a short period by lapse of membership term or otherwise. Thus, to provide a safeguard for the interregnum period, of the earlier members of the Central Council vacating their office and newly elected members assuming their office, the provisions of Section 7 have been enacted by the legislature.

17. Still another aspect is that presumption of constitutionality is always in favour of a legislation, unless the contrary is shown. Furthermore, a legislature, in enacting a law, operates on a presumption, in law and practise, both, that all other forums and entities constituted under one or other Act would, in their functioning, act in accordance with law and expeditiously. As it is a settled precept in the application of economic principles, that all other things will remain the same i.e. ceteris paribus, similarly, for the proper interpretation and examination of a provision of a statute, all bodies must be presumed to act effectively and in accordance with law.

18. A statute is construed so as to make it effective and operative as per the principle expressed in ut res valeat potius quam pereat. There is, therefore, a presumption that the legislature does not exceed its jurisdiction and the burden of establishing that the Act is not within the competence of legislature or that it has transgressed other constitutional mandates, such as those relating to fundamental rights, is always on the person who challenges its vagaries.

19. Here, we may also notice that there are two rules, of most general application, in construing a written instrument which are pari materia, applicable to statutes as well. First, if possible, the written instrument shall be interpreted in the light of the above mechanism and secondly, such a meaning shall be given to it, as may carry out and effectuate, to the fullest extent, the intention of the parties or the framers of law. Of course, such interpretation will be subject to the limitations of uniformity in the meaning given to such expressions, etc.

20. It is also a settled and deeply-rooted canon of constitutional jurisprudence, that in the process of constitutional adjudication, the courts ought not to pass decisions on questions of constitutionality unless such adjudication is unavoidable. In this sense, the courts have followed a policy of strict necessity in disposing of a constitutional issue. In dealing with the issues of constitutionality, the courts are slow to embark upon an unnecessary, wide or general enquiry and should confine their decision as far as may be reasonably practicable, within the narrow limits required on the facts of a case.”

24. On the above analogy, we are of the considered opinion that the power conferred under Section 32(7)(a)(i) of the Act read with Rule 23-AAA(5) of the Rules is exercised by the authority only to take care of the administration of the Society and since such exercise of power is not punitive in nature, no notice is

mandatory. Accordingly, we hold that taking this as falling within the established exceptions to the strict implementation of principles of natural justice and also by considering the relevant provisions of the Act more specifically in terms of Section 79(A)(1)(e) and Section 37(2) of the Act to declare that Rule 23-AAA of the Rules are within the rule making power conferred under the Act.

25. Accordingly, both the questions are answered. There shall be no order as to costs.

As a sequel, miscellaneous petitions pending, if any, shall stand closed.

JUSTICE D.RAMESH

JUSTICE KIRANMAYEE MANDAVA

JUSTICE SUMATHI JAGADAM

Date: 18.08.2026

Ivd

Whether the order is:

Speaking	No	Reasoned	Yes
Reportable	No	Non-reportable	Yes

**THE HONOURABLE SRI JUSTICE D.RAMESH
THE HONOURABLE SMT JUSTICE KIRANMAYEE MANDAVA
AND
THE HONOURABLE SMT JUSTICE SUMATHI JAGADAM**

WRIT PETITION No.18636 of 2009

Dated: 18.08.2026

lvd