

A. Nadamuni and Others

Vs

Prohibition & Excise Commissioner, Nampally, Hyderabad and Others

SLP (C) No. 25281 of 1996

(K. Ramaswamy, G. T. Nanavati JJ)

13.01.1997

ORDER

1. This special leave petition has been filed against the order of the Division Bench of the Andhra Pradesh High Court, made on 13-12-1996 in Writ Appeal No. 1437 of 1996 confirming the judgment of the learned Single Judge, dated 4-12-1996 in Writ Petition No. 11385 of 1996.
2. The only question for our consideration is whether the Superintendent of Excise who is also Registrar for certain purposes of the Andhra Pradesh Cooperative Societies Act, 1964 (for short, "the Act") has the power to disqualify an existing member of the Srikalahasthi Toddy Tappers' Cooperative Society ? The object of the Society is to ameliorate the economic condition of tappers by providing them means of livelihood by tapping the toddy trees allotted by the Excise authorities. The provisions of the Act, the rules made thereunder and the bye-laws of the Society regulate the admission of the members. The Toddy Tappers' Cooperative Society should consist of members who are really and actually in the avocation of tappers and are allotted palmera trees for tapping toddy as their source of livelihood. On a complaint that non-tappers were admitted and are members of the Society at the behest of a member, a writ petition came to be filed in the High Court. Pursuant to an interim direction given by the High Court to conduct tapping test, the competent officers conducted the same in that behalf. The authorities came to conclude that the petitioners were not tappers as they did not fulfil the condition of the tapping experience etc. and accordingly were removed from the membership which decision was confirmed by the High Court in the writ petition as also in appeal.
3. It was contended that the Registrar (Superintendent of Excise) has no power to remove them from membership of the Society. The primary contention raised in the High Court as reiterated by Shri L.N. Rao, learned counsel for the petitioners, is that while power under Section 19, in the matter of admission of the members of the Society, was delegated to the Superintendent of Excise, power under Section 21, namely, disqualification for being a member of the Society etc. was not delegated to him. Therefore, the Superintendent of Excise was without jurisdiction to remove the petitioners from the membership of the Society. We find no force in the contention. It is seen that admission of the members is governed by the provisions of Section 19 of the Act. Section 21 prescribes disqualification for being a member of the Society. Sub-section (1) postulates that a person shall be disqualified for being admitted as, and for being a member, in the circumstances enumerated in clauses (a) to (e). Clause (aa) was also introduced in 1988 and thereby another ground for disqualification came to be added to the existing grounds. Under the said clause (aa), a person who is not eligible for membership of the Society under Section 19 is disqualified for being admitted as, and for being, a member of the Society. Under these circumstances, once the power of non-admission of a member of the Society under Section 19 has been engrafted in Section 21 and

delegated for removal from membership as envisaged in Rule 20 of the Rules, the Superintendent of Excise has power under Rule 20 which empowers him to consider the ineligibility for being removed from membership under Section 19. Power under Section 19 was delegated to the Superintendent of Excise. The inescapable consequence is that the subsequent disqualification for being a member of the Society also becomes available under Rule 20 as disqualification if the member ceases to be a tapper. It would be one of the factors to be considered under Rule 20. As a consequence, it is not necessary that there should be an express separate conferment of power of the Registrar under Section 21 on the Superintendent of Excise. We, therefore, hold that the view taken by the High Court is not vitiated by any error of law warranting interference.

4. The special leave petition is dismissed.