

THE HONOURABLE SRI JUSTICE K. LAKSHMAN

WRIT PETITION No.6457 OF 2020

ORDER:

This Writ Petition is filed to quash the order dated 21.01.2020 in I.A. No.189 of 2019 in R.P. No.1 of 2019 in I.A. No.9 of 2018 in C.T.A. No.3 of 2019, pending on the file of the 4th respondent - Cooperative Tribunal (for short 'the Tribunal'), by calling for the records.

2. Heard Sri G. Vidya Sagar, learned Senior Counsel representing Smt. K. Udayasri, learned counsel for the petitioner, Sri Kona Vijay Kumar learned counsel for the 1st respondent and the learned Government Pleader for Cooperation for the 2nd respondent.

3. The factual matrix of the present writ petition is as follows:

The petitioner is a Cooperative Bank, engaged in banking activities in accordance with guidelines of Reserve Bank of India and Banking Regulations Act. An internal enquiry was conducted through which certain irregularities and misappropriation committed by certain employees of the bank including the 1st respondent were unearthed. According to the petitioner, the 1st respondent while working as Assistant Manager at Ranigunj Branch committed certain irregularities, abused her official position and made transactions of Rs.6,86,849/- on 11.03.2009 crediting the said amount to the S.B. account No.757 and Rs.5,00,000/- on 10.05.2007 debited pay order

for cash payments totaling to Rs.11,86,849/-. According to the petitioner, a domestic enquiry was conducted into the charges leveled against the 1st respondent wherein she had admitted her guilt.

4. Thereafter, the petitioner Bank raised a dispute under Section 61 (1) (c) of the Telangana Cooperative Societies Act, 1964 (for short 'the Act'), vide ARC No.116 of 2014 for passing an Award declaring that the respondents therein are jointly and severally liable to pay an amount of Rs.19,58,459-79 ps., along with simple interest from 01.12.2014 @ 10% per annum till the date of realization. The 2nd respondent has passed an award dated 17.11.2017 in ARC No.116 of 2014 holding that the claim of the Bank stands proved against the respondents 1 and 3 and are held liable to pay jointly and severally a sum of Rs.19,58,459-79 ps., to the petitioner Bank along with future simple interest from 01.12.2014 @ 12% per annum till the date of realization.

5. Feeling aggrieved by the said award, dated 17.11.2017 in ARC No.116 of 2014 passed by the 2nd respondent under Section 62(4) of the Act, the 1st respondent preferred an appeal under Section 76 of the Act vide CTA No.3 of 2018. In CTA No.3 of 2018, the 1st respondent has taken a specific preliminary objection saying that the dispute raised by the petitioner bank under Section 61 (1) (c) of the Act claiming the above said amount of Rs.19,58,459-79 ps., along with interest against the 1st respondent and others is not maintainable. It is further contended by the 1st respondent that if at all the petitioner

bank is having any grievance it has to initiate surcharge proceedings under Section 60 of the Act, but not a dispute under Section 61 of the Act.

6. Along with the said appeal, the 1st respondent has also filed I.A. No.9 of 2018 to suspend the award passed in ARC No.116 of 2014 dated 17.11.2017. The 4th respondent Tribunal has allowed the said IA vide order dated 19.04.2018 and the award in ARC No.116 of 2014 dated 17.11.2017 is suspended subject to condition of depositing 50% of the amount involved in the impugned order or furnishing security of equal value of the 50% of the amount within a period of (15) days from the date of the order.

7. The 1st respondent has filed a Review under Section 78 of the Act vide RP No.1 of 2018 before the 4th respondent Tribunal seeking to review the order dated 10.04.2018 in I.A. No.9 of 2018 in CTA No.3 of 2018. Along with said Review Petition, the 1st respondent has also filed I.A. No.189 of 2019 to suspend the order dated 10.04.2018 in I.A. No.9 of 2018 in CTA No.3 of 2018, pending review petition. The 4th respondent Tribunal vide order dated 21.01.2020 disposed of the said I.A No.189 of 2019 suspending the operation of the order in I.A. No.9 of 2018 in CTA No.3 of 2018 the orders passed by the 2nd respondent for recovery amount of award in ARC No.116 of 2014 from the salary of the 1st respondent till further orders. Assailing the said order, the petitioner bank filed the present writ petition.

8. Sri G. Vidya Sagar, learned senior counsel representing Smt. K. Uayasri, learned counsel appearing for the petitioner contending that the very review application filed by the 1st respondent under Section 78 of the Act is not maintainable. The 1st respondent has raised several fresh and new grounds, which are not within the purview of Section 78 of the Act and that the 4th respondent exceeded its jurisdiction and passed the impugned order dated 21.01.2020 in I.A. No.189 of 2019 in R.P. No.1 of 2019. According to the learned senior counsel, the 4th respondent Tribunal has passed orders dated 19.04.2018 in I.A No.9 of 2018 directing the 1st respondent to deposit 50% of the amount involved in the impugned order or furnish security of equal value of the 50% of the amount within a period of (15) days from the date of orders in terms of Rule 11 of the Telangana Cooperative Tribunal (Procedure) Rules, 1994 (for short 'the Rules') and that the scope of review under Section 78 of the Act is very limited. The 4th respondent Tribunal, without appreciating the said fact, passed the impugned order dated 21.01.2020 in I.A. No.189 of 2019 in R.P. No.1 of 2019. By virtue of the impugned order passed by the 4th respondent Tribunal, the petitioner bank is not in a position to recover the amount awarded by the 2nd respondent in ARC No.116 of 2014. According to the learned senior counsel, there is no error in the order passed by the 4th respondent dated 19.04.2018 in I.A. No.9 of 2018 in CTA No.3 of 2018. The 1st respondent instead of complying with the said order by depositing 50% of the amount involved or by furnishing security to the value of 50% of the amount, filed review

petition raising altogether new grounds. With the said contentions, learned senior counsel sought to set aside the impugned order.

9. Sri Kona Vijay Kumar, learned counsel appearing for the 1st respondent would submit that the 4th respondent Tribunal had not followed the procedure laid down under the Act and also the Rules properly while passing the order dated 19.04.2018 in I.A NO.9 of 2018 in CTA No.3 of 2018. Though the 1st respondent raised an important ground of maintainability of the very dispute under Section 61 of the Act, the 4th respondent without considering the same, passed order dated 10.04.2018 suspending the award in ARC No.116 of 2014 dated 17.11.2017 on condition of depositing of 50% of the disputed amount or furnish security of value equal to the 50% by the 1st respondent. According to him, the said order was passed by the Additional Registrar/Member of the 5th respondent Tribunal. The 1st respondent had filed I.A No.9 of 2018 on 12.01.2018 seeking stay of the Award passed in ARC No.116 of 2014 and the said I.A. was allotted to the Additional Registrar/Member of the Tribunal and posted on 09.02.2018. The said I.A was called on 09.02.2018 and adjourned to 08.03.2018 with the following order:

“Call for the counter from the Bank. Call on 08.03.2018.”

10. According to the learned counsel for the 1st respondent that on 08.03.2018, the counsel for the petitioner bank raised objection that the I.A. was filed without enclosing the original copy of the impugned

Award. Thereafter, on verification, the original award in ARC No.116 of 2014, dated 17.11.2017 was found in the original bundle in CTA NO.3 of 2018. By that time, the Member left to her chambers without noting the next date of hearing. During pendency of the said I.A No.9 of 2018, the petitioner bank proceeded with for recovery of amount awarded in the award dated 17.11.2017. Later he came to know that the I.A. was posted to 10.04.2018 and order was passed on 19.04.2018 directing the 1st respondent to pay 50% of the amount or furnish security for the value equal to 50% of the amount.

11. Since there are procedural irregularities and the grounds raised by the 1st respondent, more particularly, with regard to the maintainability of the very dispute under Section 61 of the Act is not addressed by the 4th respondent in the impugned order. Therefore, the 1st respondent filed a review under Section 78 of the Act vide R.P. No.1 of 2019. Along with the said review application, the 1st respondent has also filed I.A. No.189 of 2019 seeking to suspend the order dated 10.04.2018 in I.A. No.9 of 2018 in CTA No.3 of 2018. In the review application, it is specifically contended that I.A. No.9 of 2018 was not closed/reserved by the Member of the 4th respondent, therefore, the question of reopening of the said I.A. does not arise. The 1st respondent filed the original award copy along with appeal and therefore, on verification of the appeal including filing of the original award only, the office of the 4th respondent Tribunal numbered the appeal as CTA No.3 of 2018. Therefore, the question of 4th

respondent asking the 1st respondent to file copy of the award in ATC No.116 of 2014 dated 17.11.2014 and reopening of I.A. No.9 of 2018 on 10.04.2018 does not arise. According to the learned counsel for the 1st respondent, he has obtained certified copy of the docket orders in I.A. No.9 of 2018 in CTA No.3 of 2018 which shows that there was no noting of having received the copy of the award. In the event of non-availability of the impugned award and no mention about filing of copy of the award in the appeal, the Member of the 4th respondent Tribunal disposed of I.A. No. 9 of 2018 and passed orders dated 10.04.2018 without there being copy of award in ARC No.116 of 2014, and without verifying the same.

12. Sri Kona Vijay Kumar, learned counsel for the 1st respondent would contend that as per the established procedure/practice, the Tribunal in the course of hearing of any case gives opportunity to both parties for oral arguments and also gives opportunity to file written arguments. But, in the present case, in I.A. No.9 of 2018 no opportunity at all was given to the 1st respondent to submit her contentions either oral or written. He would further submit that the order in I.A. No.9 of 2018 was passed by the learned Member on 19.04.2018. On the docket also the date of pronouncement of the order was mentioned as 19.04.2018. On his enquiry, it was understood that the learned Member was not on the Bench on 19.04.2018 and therefore, made the correction on the docket and thus, falsified the Court records. He would further submit that the 4th

respondent Tribunal without following the procedure laid down under Rule 20(6) of the Rules, passed order dated 10.04.2018 in I.A No.9 of 2018. He would further submit that the 1st respondent has lodged a complaint dated 27.07.2019 to the Hon'ble the Chief Justice, the Registrar General and FAC Registrar (Vigilance), High Court for the State of Telangana against the Member of the 4th respondent Tribunal for committing the said irregularities including falsification of the Court records in the manner stated above. According to him, the said complaint is pending. The 1st respondent has filed review application under Section 78 of the Act vide R.P. No.1 of 2019 raising all the above said grounds and also filed I.A. No.189 of 2019 seeking to suspend the order dated 10.04.2018 in I.A. No.9 of 2018. According to him, the 4th respondent Tribunal, after giving opportunity to the parties, passed order dated 21.01.2020 suspending the operation of the order in I.A. No.9 of 2018 in CTA No.3 of 2018 pending disposal of the review application and also suspended the orders passed by the respondents therein for recovery of amount of Award in ARC No.116 of 2014 from the salary of the 1st respondent herein till further orders.

13. According to the learned counsel for the 1st respondent, there is no error in the impugned order dated 21.01.2020. The Tribunal has passed the said order by giving specific reasons and considering the entire material. According to him, the very appeal i.e. CTA No.3 of 2018 is coming for arguments from September 2019 itself. Both the petitioner bank as well as the 1st respondent has filed

written arguments in CTA No.3 of 2018 and therefore, a direction may be given to the 4th respondent to dispose of the very appeal itself to put a quietus to the entire controversy/*lis* in CTA No.3 of 2018. He would further submit that the petitioner bank instead of pursuing the very appeal, filed the present writ petition with a *malafide* intention for wrongful gain to harass the 1st respondent. With the said contentions, learned counsel for the 1st respondent sought to dismiss the writ petition.

14. Learned Government Pleader representing the 2nd respondent would submit that the 2nd respondent is only a formal party and however, he sought to dismiss the very writ itself.

15. This Court, vide order dated 22.04.2020 granted interim suspension of the impugned order dated 21.01.2020 in I.A No.189 of 2019. Thereafter, the 1st respondent entered appearance through her counsel and filed counter and vacate petition contending that the 1st respondent has filed caveat, which was in force as on the date of filing of the writ petition and passing of the interim order. The Registry did not put up the caveat and on the other hand, the concerned clerk affixed “no caveat” stamp due to inadvertence. After calling for report from the Registry, this Court vide order dated 27.05.2020, recalled the order dated 22.04.2020. Thereafter, papers were served on the counsel for the 1st respondent.

16. After filing the counter by the 1st respondent, the writ petition was heard and reserved for orders on 09.06.2020. After hearing the arguments of the learned senior counsel and the learned counsel appearing for the 1st respondent, this Court was of the view to verify the original record in CTA No.3 of 2018 and in RP No.1 of 2019 and accordingly, the said record was called for from the 4th respondent Tribunal.

17. Perused the original record in CTA No.3 of 2018 and RP No.1 of 2019. The following are the undisputed facts:

The 1st respondent filed appeal vide CTA No.3 of 2018 before the 4th respondent Tribunal challenging the award dated 17.11.2017 in ARC No.116 of 2014, and the same was registered and posted to 09.02.2018. Along with the said appeal, the 1st respondent also filed I.A No.9 of 2018 seeking to suspend the award dated 17.11.2017 in ARC No.116 of 2014. The said I.A. No.9 of 2018 was allotted to the Additional Registrar/Member of the 4th respondent Tribunal. As per the original docket of the said I.A. No.9 of 2018 in CTA No.3 of 2018, learned Member called the said IA on 09.02.2018 and passed the following order:

“Call for the counter from the Bank. Call on 08.03.2018”.

18. It is surprising to note that there is no order on the docket of I.A. No.9 of 2018 on 08.03.2018. According to the original docket of

I.A No.9 of 2018, the said I.A. was called on 10.04.2018 and the learned Member passed the following order:

“I.A. reopened for filing of copy of the award in ARC Rc.No.116/2014 date:-17.11.2017.”

19. The orders were passed on 19.04.2018. On perusal of the order in I.A No.9 of 2018 in CTA No.3 of 2018 filed by the petitioner Bank along with the writ petition shows the date of the order as 19.04.2018. The learned Member of the 4th respondent Tribunal also signed on the said order wherein the date of the order at the top as well as at the end of the order is mentioned as 19.04.2018. Admittedly, there is a correction in the date of the order on the docket. The docket was signed by the learned Member of the 4th respondent Tribunal. The correction was with green pen as well as black pen. I have also perused the order passed by the learned Member of the 4th respondent Tribunal in I.A. No.9 of 2018 in the original file, which contains the date as 19th April, 2018 at the top of the order and also at the bottom of the order. Thus, admittedly, there is alteration in the “date of the order” on the docket of I.A. No.9 of 2018.

20. On perusal of the original docket of the appeal in CTA No.3 of 2018, the appeal was registered and the date of the registration of the appeal is not mentioned. However, at the time of registration of the appeal, the Tribunal ordered “issue personal notice”. The appeal was called on 09.02.2018 and was adjourned to 08.03.2018. On 08.03.2018, it was adjourned to 14.03.2018 and from 14.03.2018 to

02.04.2018. The appeal was adjourned to 04.04.2018 from 02.04.2018 for examining the IAs. Thereafter, it was adjourned to 13.06.2018 from 04.04.2018. Again it was simply adjourned from 13.06.2018 to 06.07.2018. On 13.07.2018, the following order was passed in CTA No.3 of 2018:

“I.As pending. 24.08.2018.”

21. From 24.08.2018, it was adjourned to 05.09.2018. On 05.09.2018 on the docket of CTA No.3 of 2018, it was mentioned as “I.A pending. 19.09.2018.” On 19.09.2018, it was adjourned to 31.10.2018 stating that I.A Nos.47 of 2018, 48/2018 and 59/2018 pending. On 31.10.2018, it is mentioned that I.As are dismissed. Office to call for the records. Call on 14.12.2018. On 14.12.2018, it is mentioned on the docket that record received. Due for hearing. At the request of petitioner, call on 26.12.2018. It appears from the said docket of the CTA No.3 of 2018 that the record was received by 14.12.2018 and the matter is coming for arguments from the said date.

22. It is also relevant to note that the 1st respondent herein filed three I.As., i.e. I.A. Nos.47/2018 in CTA No.3/2018 under Section 76(6) of the Act to order suspension of the order of the Award dated 17.11.2017 in ARC No.116 of 2014. I.A. No.48/2018 under Section 76(6) of the Act read with Order 41 Rule 20 CPC to permit the appellant to join 3rd respondent herein as proforma respondents to the appeal and to tag on CTA No.1 of 2018 to CTA No.3 of 2018. I.A. No.59/2018 under Section 76(6) of the Act read with Order 41 Rule 5

CPC to adjudicate I.A. filed on 27.04.2014 and to suspend ARC No.116 of 2014 passed by the 2nd respondent. It appears from the dockets of the said I.As., that the said I.As. were dismissed on 04.10.2018.

23. As stated above, I.A. No.9 of 2018 in CTA No.3 of 2018 was called by the learned Member of the 4th respondent on 09.02.2018 and adjourned to 08.03.2018 calling for counter from the bank. There is no docket order on 08.03.2018. There is no explanation offered by the 4th respondent for non-mentioning of order on the docket of the IA on 08.03.2018. Whether the said I.A. was called on 08.03.2018 or not, was not known.

24. The 1st respondent filed a certified copy of the docket in IA No.9 of 2018 in CTA No.3 of 23018 along with the counter filed in the present writ petition. As per the same, there was an order on 09.02.2018 and also an order on 08.03.2018 i.e. "Call on 10.04.2018". On 10.04.2018, the I.A. was reopened for filing of copy of the Award in ARC No.116 of 2014 dated 17.11.2017. As stated above, the main appeal i.e. CTA No.3 of was also called on 09.02.2018 and adjourned to 08.03.2018 to 14.03.2018 and 14.03.2018 to 02.04.2018. From 02.04.2018 to 04.04.2018 and from 04.04.2018 to 13.06.2018 and from 13.06.2018 to 06.07.2018 and it was adjourned to 13.07.2018. On 13.07.2018 on the docket, it was mentioned "IAs are pending and adjourned to 24.08.2018." There is no mention about the IA numbers.

25. In the docket order of I.A. No.9 of 2018 in CTA No.3 of 2018, there is no mention of filing of counter by the 1st respondent herein. There is no mention about hearing the arguments of the parties and reserving the matter for orders. But, surprisingly, on 10.04.2018, it is mentioned on the docket that I.A. reopened for filing of copy of the award in ARC. There is no mention about filing of copy of the award subsequently, pursuant to order dated 10.04.2018. The said order was passed thereafter. On perusal of the original order, in the original file of CTA No.3 of 2019, the date of order is mentioned as 19.04.2018 at the top and at the bottom. Even the copy of the order filed by the writ petitioner bank also shows the date of order as 19.04.2018. But, whereas the original docket in I.A No.9 of 2018, the date of the order is mentioned as 10.04.2018. Admittedly, there is correction in the date.

26. As per the original docket in I.A. No.9 of 2018 in CTA No.3 of 2018, there is no mention with regard to hearing of parties by the 4th respondent Tribunal. Whereas in the order in I.A No.9 of 2018 it is mentioned about hearing of arguments of learned counsel for the petitioner and learned counsel for the 1st respondent and also perusal of material papers. It is also mentioned about filing of counter by the petitioner bank. There is no mention in the docket about filing of counter by the petitioner bank in I.A. No.9 of 2018. In the order in I.A. No.9 of 2018, the learned Member mentioned that the issues raised by the 1st respondent on the basis of which the appeal was filed

and the counter arguments of the respondents shall be adjudicated at the time of hearing of the main appeal, that at present the point to be considered is the grant of temporary relief to the applicant/appellant pending disposal of the main application, that since the disposal of the main application may take some more time as per Rule (11) of the Rules, the said order was passed suspending the award in ARC No.116 of 2014 dated 17.11.2017 subject to condition of the 1st respondent depositing 50% of the amount or furnishing security equal to the value of 50% within a period of 15 days from the date of receipt of the said order.

27. Aggrieved by the said order, the 1st respondent filed review vide RP No.1 of 2019 under Section 78 of the Act raising several grounds including the ground with regard to procedure to be followed under Rule 20 of the Rules. It is also contended that if at all the bank is having any grievance with regard to the alleged misappropriation, pursuant to the report under Section 51 of the Act, the bank has to initiate surcharge proceedings under Section 60 of the Act, but not a Dispute under Section 61 of the Act. It is also contended in the review application that when serious questions of law are raised in the appeal and in the stay petition, the matter has to be allotted to a Judicial Member instead of Administrative Member of the Tribunal. Whereas, in the present case, I.A No.9 of 2018 was allotted to non-judicial Member/Administrative Member, which is contrary to the Rules. With the said contentions, the 1st respondent preferred the

review application vide RP no.1 of 2019. Along with the said review application, the 1st respondent has also filed I.A. No.189 of 2019 seeking to suspend the order passed in I.A No.9 of 2018 in CTA No.3 of 2018.

28. The 4th respondent Tribunal consisting of learned Chairman and learned Member, passed the impugned order dated 21.01.2020. In the said order, it was held that the order under appeal is not an order passed under Section 60 of Act i.e. surcharge proceedings and it is an award passed under Section 62(4) of the Act on the application filed under Section 61 of the Act. Therefore, it is necessary that the discretion conferred on the Tribunal should be exercised only for justifiable reasons, but not by merely invoking the rule. The order in I.A No.9 of 2018 did not mention any reasons for imposing conditions therein, but merely quoted the Rule (11) of the Rules. Therefore, the order passed by the Member in I.A No.9 of 2018 did not specify the requirement of law as laid down by the High Court. It is also observed in the impugned order that there was correction in the date of the order and there was no mention of any hearing conducted to hear the pleadings of the parties or any written arguments were submitted by the parties. Therefore, it has to be considered that the order in I.A. No.9 of 2018 is passed without complying with the principles of natural justice. In the impugned order, it is also mentioned by the 4th respondent Tribunal that the very jurisdiction of the Registrar to conduct the Arbitration under Section 61 of the Act was under cloud,

the validity of the Award and subsequent proceedings are also doubtful.

29. The findings in ARC No.116 of 2014 and the findings of the domestic enquiry report were also considered by the Tribunal and held that the petitioner bank could not establish a prima facie case to justify recovery of the amount of the alleged loss from the 1st respondent and as such, the recovery of amount mentioned in the award in ARC No.116 of 2014 has to be suspended pending final disposal of the appeal. Thus, the suspension of order in IA No.9 of 2018 and award in ARC No.116 of 2014 were granted by the Tribunal in the impugned order.

30. As discussed above, admittedly, there are procedural lapses on the part of the 4th respondent Tribunal while deciding I.A No.9 of 2018. There is no mention about filing of counter and hearing of arguments by the Tribunal in I.A No.9 of 2018. But, the original record of the Tribunal in I.A No.9 of 2018 in CTA No.3 of 2018, there is counter filed by the petitioner bank. The same was served on the 1st respondent and the Presenting Officer on 02.04.2018. As per the seal of the Tribunal, the same was received on 16.07.2018, whereas, the order in I.A No.9 of 2018 was passed on 19.04.2018 (10.04.2018). When I.A. No.9 of 2018 itself was disposed on 10.04.2018 (19.04.2018), how the Tribunal received counter in I.A No.9 of 2018 is also not known. There is no explanation for the non-mentioning of docket order dated 08.03.2018 in I.A. No.9 of 2018 in CTA No.3 of

2018. On 10.04.2018 it was mentioned that IA reopened for filing of copy of the award. It is not mentioned about filing of copy of the award in ARC No.116 of 2014.

31. As rightly contended by the learned counsel for the 1st respondent, as per the procedure, the Tribunal will not number the appeal, without there being certified copy / original of the impugned award or filing of dispense with petition to dispense with filing of the original/certified copy of the award. The Tribunal registered the appeal and posted it to 09.02.2018, which implies that the 1st respondent has filed the Award in ARC No.116 of 2014. There is a correction in the date of order. According to the 1st respondent, the learned Member of the 4th respondent passed the said order on 19.04.2018 and she was not on the bench on 19.04.2018, therefore, correction was made on the docket of I.A No.9 of 2018 as 10.04.2018. Whether the learned member was there on the bench on 19.04.2018 or not is a matter to be enquired on administrative side. It is relevant to note that there is an order in CTA No.3 of 2018 as per the docket of CTA No.3 of 2018 on 10.04.2018. The Appeal was adjourned from 02.04.2018 to 04.04.2018 and to 13.06.2018. Anyway, the complaint dated 27.07.2019 lodged by the 1st respondent with the High Court is pending. Thus, there are procedural irregularities committed by the learned Member of the 4th respondent Tribunal while adjudicating and passing orders dated 19.04.2018 (10.04.2018) in I.A No. 9 of 2018 in

CTA No.2 of 2018. The same were considered by the Tribunal in the impugned order, dated 21.01.2020.

32. The Tribunal passed the impugned order dated 21.01.2020 in I.A No.189 of 2019 in RP No.1 of 2019 mainly on two grounds i.e. non-consideration of the contention of the 1st respondent with regard to maintainability of the application under Section 61 of the Act filed by the petitioner vide ARC No.116 of 2014. No reasons were mentioned by the learned Member in the order dated 19.04.2018 (10.04.2018) in I.A No.9 of 2018 in CTA No.3 of 2018. There was correction in the date of the order and there was no mention of any hearing conducted to hear the pleadings of the parties and written arguments submitted by the parties. The Tribunal also considered the findings of the enquiry report under Section 51 of the Act and domestic enquiry.

33. On perusal of the grounds of review application in RP No.1 of 2019, the 1st respondent did not raise any fresh ground or new ground. Section 78 of the Act deals with filing of review application and as per which the appellant or the applicant for revision or the respondent may apply for review of any order passed under Section 76 or 77 of the Act on the basis of the discovery of new or important facts which, after the exercise of due diligence were not then within his knowledge or could not be produced by him when the order was made, or on the basis of some mistake or error apparent on the face of the record or for any other sufficient reason.

34. The scope of the review under Section 78 of the Act is mentioned therein. In the present case, according to the 1st respondent, the review petition was filed contending that there was mistake in the order dated 19.04.2018 (10.04.2018) in I.A No.9 of 2018 in CTA No.3 of 2018, there are procedural irregularities, no opportunity was given and there is error apparent on the face of the record.

35. Rule 13 of the Rules deals with distribution of work. It reads as follows:

“13. **Distribution of work:** - (1) The Chairman of the Tribunal shall distribute work among the members of the Tribunal subject to the following:-

(a) a single Member shall hear all appeals, review applications for admission and *interim* orders and the Chairman shall entrust this work by rotation to all the members;

(b) all the appeals under sub-section (1) of Section 76 of the Act after admission and *interim* orders, if any, shall be heard by two Member Bench consisting of a Judicial Member.

The Bench which has disposed of the appeal under sub-section (1) of Section 76, shall hear and dispose of all review applications under Section 78 of the Act:

Provided that the Chairman constitute a three Member Bench whenever it is necessary basing on the nature of the case.

Explanation: - (i) The single member mentioned in Clause (a) above may be either the Chairman himself or any other Member.

(ii) The Tribunal shall fix a date for hearing and notice of the dates fixed for hearing shall be issued to the parties concerned by Registered Post Acknowledgement due in the Form-D annexed to

these rules. A copy of the memorandum of appeal shall also be furnished to the respondent or respondents.

(c) A copy of the affidavit and the application for suspension of impugned order shall also be furnished to the respondent or respondents along with the notice of hearing.”

36. Rule 14 of said Rules deals with procedure for hearing and adjournments and Rule 20 deals with passing of order.

37. Admittedly, in the present case, the 1st respondent raised an important legal ground with regard to maintainability of the very application under Section 61 of the Act. But, the said issue was not considered by the Member in the order dated 19.04.2018 (10.04.2018) in I.A. No.9 of 2018 in CTA No.3 of 2018. I.A. No.9 of 2018 was entrusted to Administrative Member/Additional Registrar. The learned Member did not follow the procedure and no reasons were assigned in the order dated 19.04.2018 (10.04.2018). She has not maintained the docket properly. The said mistake / irregularities are may be due to lack of training and lack of judicial approach. The Rules prescribe the procedure for filing of appeals, distribution of work, procedure for hearing, adjournments etc. The job of the learned Member of the 4th respondent Tribunal is an important assignment.

38. As discussed above, there are errors apparent on the face of the record in the order dated 19.04.2018 (10.04.2018) in I.A No.9 of 2018 passed by the 4th respondent Tribunal. The said contentions of the 1st respondent were considered by the Tribunal in the impugned order. Serious allegations of correction of date of the order on the

docket, no opportunity of hearing was given to the 1st respondent and non-maintaining of docket properly etc., were alleged against the Member of the 4th respondent Tribunal. A complaint was also made by the 1st respondent to the High Court levelling serious allegations of correction of date on the docket order and she was not on the bench on 19.04.2018 etc. against the learned Member of the 4th respondent Tribunal. May be with the said reason, the Tribunal consisting of the Chairman and other Member of the Tribunal has passed the impugned order in I.A. No.189 of 2019 in R.P. No.1 of 2019. Therefore, according to this Court, there is no error in the impugned order dated 21.01.2020 passed by the 4th respondent Tribunal in I.A No.189 of 2019 in R.P. No.1 of 2019.

39. As stated above, the appeal itself is coming for arguments from July, 2018. The parties have already filed written arguments. Therefore, the 4th respondent Cooperative Tribunal shall make an endeavour to dispose of the very appeal itself to put a quietus to the *lis* involved in the appeal by following the guidelines / SOP in Notification ROC.No.394/SO/2020, dated 27.06.2020 issued by the High Court as expeditiously as possible.

40. As discussed supra, the petitioner failed to establish any ground or circumstance that warrants interference by this Court in the present writ petition.

41. Accordingly, the Writ Petition is dismissed. However, there shall be no order as to costs. As a sequel, miscellaneous petitions, pending if any, shall stand closed.

42. As discussed supra, the learned Member of the 4th respondent, Additional Registrar of Cooperative Department did not follow the procedure established by law, did not maintain the docket properly and no reasons were assigned in the order dated 19.04.2018 (10.04.2018). Admittedly, there is correction in the date of order on the docket of I.A. No.9 of 2018 and there is no docket order dated 08.03.2018. Whereas, in the certified copy of the order in I.A.No.9 of 2018 filed by learned counsel for the petitioner along with the counter affidavit, there is docket order dated 08.03.2018. Thus, the docket was not maintained properly. There are irregularities in maintaining the docket and passing the orders by the learned Member of the 4th respondent, Additional Registrar of Cooperative Department. The said mistakes/irregularities may be due to lack of proper training and lack of judicial approach. As stated above, though the Rules prescribed the procedure for filing the appeals, distribution of work, procedure for hearing, adjournments etc., the same was not followed by the learned Member of the 4th respondent Tribunal. The assignment entrusted to the learned Member of the 4th respondent Tribunal is an important assignment. She has to maintain the docket, pass orders in I.As. and also pass orders in the main appeals along with the Chairman of the Tribunal.

43. It is apt to mention that maintenance of docket is an important assignment which shows the day-to-day proceedings of a particular case. The docket proceedings will be entered in the 'A' diary. Therefore, there should be transparency in maintaining the docket proceedings. As stated above, the learned Member of the 4th respondent has not maintained the docket of I.A.No.9 of 2018 properly. There is no mention about filing of counter by the Bank. There is no mention about hearing the arguments of the parties and there is no mention about reserving the matter on a particular date after hearing the parties. But, on the docket dated 10.04.2018, there is mention about re-opening of I.A. for filing copy of the award. Thus, there are irregularities in maintaining the docket by the learned Member of the 4th respondent in I.A.No.9 of 2018.

44. Section 75 of the Act deals with constitution of Co-Operative the Tribunal. As per Section 75 (2) of the Act, composition of the Tribunal is one Chairman and two Members. As per Section 75 (3) of the Act, the Chairman shall be a person who is or has been a Judicial Officer not below the rank of a District Judge and a Member shall be a person, who holds or has held a post not below the rank of Additional Registrar of Cooperative Societies. Section 75(5) of the Act deals with quorum, conduct of its business and procedure to be followed by the Tribunal etc. Accordingly, the procedure is prescribed under the Telangana Cooperative Tribunal (Procedure) Rules, 1994. In the present case, the order dated 19.04.2018

(10.04.2018) in I.A. No.9 of 2018 was passed by the Member / Additional Registrar. This is not in tune with the dispute resolution process which has to be verifiable transparent.

45. Thus, it is high time that the Government has to initiate steps to impart proper training to the Members, who are not below the rank of Additional Registrar from the Cooperative Department. The officials of the Cooperative Department are being appointed as Members of the Cooperative Tribunals in accordance with the procedure laid down under the Act. No formal training is imparted to them. But, they are being assigned with the important assignments of discharging the functions on par with a Judicial Officer, which includes maintaining of dockets and passing of orders in interlocutory applications and also hearing of appeals and passing of orders along with the Chairman of the Tribunal. Though such an important assignment is entrusted to the officials of the Cooperative Department, no training is imparted to them much less judicial training.

46. It is also apt to note that under the Act several quasi-judicial functions are entrusted to the officers of the Cooperative Department without giving any training to them. They are passing orders/awards under the provisions of the Act by recording evidence, considering the pleadings of the parties including the judgments cited by the parties, which are important assignments in the Cooperative Department. The orders passed go long way to streamline the Co-

Operative Societies and have long time effect upon the co-operative movement, culture and spirit.

47. Like-wise, similar quasi-judicial functions are also assigned to the officers of the Revenue Department under the Revenue laws, Labour Department officials under various Labour Laws, officials of Tax department under various Tax Laws, the Revenue Divisional Officers working in Scheduled Areas under Agency Laws, Land Transfer Regulations etc. Appropriate training, sensitization, befitting the functions they discharge as Adjudicating Officers seems to be lacking.

48. It is also pertinent to mention that the High Courts are appointing Judicial Officers including Junior Civil Judges and District Judges by issuing notification, conducting written tests and oral tests from eligible candidates. After selection, High Courts are imparting training to them in the Judicial Academy on various aspects. There are several programmes to fine tune the adjudicating skills of the serving Judicial Officers, an Academy is established and functioning for the said purpose. It is also not out of place to mention that the National Judicial Academy at Bhopal has been conducting seminars, workshops etc., on various legal topics to the High Court Judges so as to enable them to be fully appraised of current trends and new legal issues.

49. The Revenue Officials, like Tahsildars, Revenue Divisional Officers and Joint Collectors have been discharging various quasi-judicial functions under Revenue Laws. The said orders are subject to judicial scrutiny by High Courts in judicial review under Article 226 of the Constitution of India. In many cases, the High Courts also considering the fact that there are concurrent findings of the said quasi-judicial officers and dismissing the writ petitions on the ground of concurrent findings. Thus, the said officials have been discharging important quasi-judicial functions pertain to property rights of citizens.

50. The Officials of Labour Department have been discharging quasi-judicial functions under various Labour Laws including the Minimum Wages Act, 1948, Payment of Wages Act, 1936, Payment of Gratuity Act, 1972 and Employees Compensation Act, 1923 (formerly known as Workmen's Compensation Act) etc. They are also recording evidence and passing orders. It is trite to note that an order passed by the Assistant Commissioner of Labour under the provisions of Employees Compensation Act is subject to judicial scrutiny by the High Court in judicial review under Article 226 of the Constitution of India. Thus, virtually an order passed by an untrained Officer is being subjected to judicial scrutiny by a High Court Judge. Even for the said officials also, there is no training regarding the basic concepts of adjudicatory process both procedural and content wise.

51. Likewise, Officials of Commercial Tax Department have been discharging various quasi-judicial functions and the proceedings which involve complicated questions of law, like limitation, application of principle etc. and also involve huge amounts. For them also, there is no serious training befitting the important issues they adjudicate.

52. Under Agency Laws, in Scheduled Areas, the Revenue Divisional Officers concerned have been assigned with suits to be tried and pass decrees which involve complicated questions of law, preparation of dockets and passing of decrees by appreciation of principles etc. Even for them, there is no proper substantial training though they decide issue of lives of Tribunal Communities.

53. It is also pertinent to mention here that the Law Commission of India in its 186th Report made certain proposals for appointment of Authorities under Environmental Laws. In the said report, recommendation was made to appoint Authorities who are having requisite knowledge and expertise in the field. It was made clear that training should be given to them. The Law Commission considered various aspects of the inexperience of the quasi-judicial officials, authorities appointed in various institutions including Environmental Authorities. The Hon'ble Supreme Court in **A.P. Pollution Control Board v. Prof. M.V. Nayudu**¹ also considered the said aspect and directed both State and Central Government to

¹. (1999) 2 SCC 718

consider the said aspect and appoint the persons with requisite knowledge and expertise in the relevant field in various quasi-judicial forums.

Therefore, the Government shall address the said issue with sense of urgency and take necessary concrete proactive steps for imparting training to the Officers of various departments, like Cooperative Department, Revenue Department, Labour Department and Commercial Tax Department etc., who discharge quasi judicial functions to avoid procedural irregularities like in the present case and for proper dispensation of justice while the disputes are resolved in a manner established by law.

K. LAKSHMAN, J

21st July, 2020.

Note: The Registrar (Judicial) is directed to

- 1) mark copy of this order to the following:
 - a) The Chief Secretary, Government of Telangana, Hyderabad, for perusal and take necessary steps;
 - b) The Principal Secretary, Revenue Department, Govt. of Telangana, Hyd.;
 - c) The Principal Secretary, Commercial Taxes Dept., Govt. of Telangana, Hyd.;
 - d) The Principal Secretary, Agriculture and Co-operation Dept., Govt. of Telangana, Hyderabad; and
 - e) The Principal Secretary, Labour Employment Training and Factories Dept., Govt. of Telangana, Hyd.
- 2) transmit original record in CTA No.3 of 2018 and in RP No.1 of 2019 to the Cooperative Tribunal.

(B/O)
KTL/Mgr