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A. NADAMUNI AND ORS.

v.

THE PROHIBITION AND EXCISE COMMISSIONER,
NAMPALLY, HYDERABAD AND ORS.

B

JANUARY 13, 1997

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

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Andhra Pradesh Co-operative Societies Act, 1964 : Sections 19 and 21—Toddy tappers Co-operative Society—Superintendent to Excise—Also Registrar of Cooperative Societies—Power to disqualify members—Rules requiring that the toddy tappers Co-operative Society should consist of members who are really and actually in the avocation of tappers Writ challenging membership of petitioners—Interim dissection by High Court—Competent authority concluding that petitioners were not tappers—Consequential removal from membership—Decision confirmed by High Court—Rejection of contention that the Registrar (Superintendent of Excise) has no power to remove them from membership of Society—Held, power under Section 19 in the matter of admission of the members of the Society, was delegated to the Superintendent of Excise—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 to disqualify member—The view taken by the High Court is not vitiated by any error of law warranting interference.

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C)
No. 25281 of 1996.

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From the Judgment and Order dated 13.12.96 of the Andhra Pradesh High Court in W.A. No. 1437 of 1996.

L.N. Rao, S.U.K. Sagar and V.S. Reddy for the Petitioners.

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The following Order of the Court was delivered :

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This special leave petition has been filed against the Order of the Division Bench of the Andhra Pradesh High Court Made on December 13, 1996 in Writ Appeal No. 1437/96 confirming the judgment of the learned single Judge, dated December 4, 1996 in Writ Petition No. 11385/96.

The only question for our consideration is : whether the Superintendent of Excise who is also Registrar for certain purposes of Andhra Pradesh Co-operative Societies Act, 1964 (for short, the 'Act') has the power to disqualify an existing member of the Srikalahasthi Toddy Tappers Co-operative Society? The object of the Society is to ameliorate the economic conditions 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 by-laws of the Society regulate the admission of the members. The toddy tappers Co-operative Society should consist of members who are really and actually in avocation of tappers and are allotted palmera trees for tapping toddy as their sources 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 the 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.

It was contended that the Registrar (Superintendent of Excise) has no power to remove them from membership of 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.

- A 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, Superintendent of Excise has power under Rule 20 which empowers him to consider the ineligibility of being removed from membership under Section 19. Section 19 power 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 a 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.
- B We, therefore, hold that the view taken by the High Court is not vitiated by any error of law warranting interference.
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The special leave petition is dismissed.

T.N.A.

Petition dismissed.