

(1968) 01 MAD CK 0029
In the Madras High Court

A. Thandavaraya Chetty

APPELLANT

Vs

The District Khadi and Village Industries Officer and Another

RESPONDENT

Date of Decision : 19-01-1968

Acts Referred:

Citation : (1968) 2 MLJ 439

Hon'ble Judges : P.S. Kailasam, J

Bench : Single Bench

Judgement

P.S. Kailasam, J.—This petition is filed by the President of the Athimancheripet Oil Producers Co-operative Society Ltd., for the issue of a writ of certiorari calling for the records connected with the proceedings of the District Khadi and Village Industries Officer, Kancheepuram dated 12th November, 1967 in Rc. No. 5598 of 1967 nominating a President and six directors to the society and to quash the same.

2. The society was registered under the Madras Co-operative Societies Act, 1961 on 31st March, 1964, and started functioning from 14th June, 1964. The petitioner was appointed as a member of the Board of Directors and President of the Society by the Deputy Director (Industrial Co-operative), Madras, on 19th May, 1966, for a period of one year. According to the appointment order the petitioner's period as Director and President expired on 19th May, 1967. The petitioner challenges the validity of the order dated 12th November, 1967, on the ground that according to Section 27(3)(b) the term of office of a member of any committee nominated thereto by the Government, the Registrar or the financing bank, if such member is a non-official, shall be three years. Because of this section, learned Counsel for the petitioner submits that though the appointment was for one year from 19th May, 1966, it should in effect be for three years and will continue upto 19th May, 1969.

3. Section 27 provides for the appointment of committees for the management of the affairs of the registered societies. Section 27 (1) provides that the general body of a registered society shall constitute a committee in accordance with the

bye-laws and entrust the management of the affairs of the registered society to such committee. We are not concerned with the first proviso to Section 27 (1). The second proviso reads as follows:

Provided further that where the bye-laws so provide, the Government or the Registrar may nominate all or any of the members of the committee for such period as may be specified in the bye-laws.

This proviso has a general application regarding societies which were formed after the commencement of the Act. The by-law of the society was amended on 18th April, 1966, and bye-law No. 19-A as it stands reads as follows:

19-A. Notwithstanding anything contained in these bye-laws the Registrar of Industrial Co-operatives shall be competent to nominate the Board of Directors including the President and the Vice-President from time to time for the first three years and may at his discretion nominate the directors for such period as he deems fit provided the total period does not exceed nine years in the aggregate. The Registrar of Industrial Co-operatives may in the interests of the society terminate the nomination of any director at any time and nominate another in his place.

Any vacancy that may arise in the Board so nominated during the course of the above period shall be filled by the Registrar of Industrial Co-operatives.

According to the provisions of bye-law 19-A the Registrar may at his discretion nominate directors for such period as he deems fit provided the total period does not exceed nine years in the aggregate. While the second proviso to Section 27 (1) enables the Government or the Registrar to nominate members of the committee for such period as may be specified in the bye-laws, Section 27 (3) (b) prescribes that the term of office of a member of the Committee nominated by the Government or the Registrar when such member is a non-official, shall be 3 years. Reading the two provisions together, it is clear that the period of three years would be applicable to non-official members nominated by the Government or the Registrar, in cases where there are no bye-laws of the society. If the bye-law provides for appointment for a specific period, the second proviso to Section 27 (1) will be applicable. In this case, as bye-law 19-A makes provision for appointment for such period as the Registrar may consider necessary, the appointment of the petitioner as the President and director for a period of one year is valid and he cannot take advantage of Section 27 (3) (b) and claim that the appointment, is for three years. The appointment, therefore, expired on 19th May, 1967, and the impugned order appointing a president and six other directors on 12th November, 1967, cannot be questioned.

4. This writ petition is, therefore, dismissed. There will be no order as to costs.