
(1998) 02 KAR CK 0021

In the Karnataka High Court

Case No : Writ Petition No. 24532 of 1997 connected with Writ Petition No. 27574 of 1997

B.N. Jayanth Kumar

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 20-02-1998

Acts Referred:

Constitution of India, 1950 — Article 213

Karnataka Co-operative Societies Act, 1959 — Section 121, 29 D

Citation : AIR 1998 Kar 215 : (1998) ILR (Kar) 2081 : (1998) 3 KarLJ 19

Hon'ble Judges : A.J. Sadashiva, J

Bench : Single Bench

Advocate : Sri Jayakumar S. Patil, for the Appellant; Sri R.I. D'sa, High Court Government Advocate and Sri K. Nagaraja, High Court Government Pleader, Sri S.T. Rajasekhara, M/s. P. Nataraju Associates, Sri. K. Gopal Hegde and Sri R.S. Ravi, for the Respondent

Judgement

1. Whether the Government, in exercise of its power u/s 121 of the Karnataka Co-operative Societies Act, 1959, hereinafter called "the Act", may extend the benefit of exemption to any Co-operative Society from any provision of the Act, to enable an individual to continue in the office, contrary to the spirit behind the restriction imposed by the statutory provision? is the question that falls for consideration in both these petitions. They are, therefore, disposed of by this common order.

2. The facts are not in dispute in these cases and they are as follows:

The petitioner in the first petition is stated to be an elected Director on the Committee of Management of respondent 5. The 3rd respondent is the president of the 5th respondent society from 10-4-1991. u/s 29D of the Act, no person shall be eligible for election or appointment or to continue as President, Vice-President, Managing Director, Treasurer or Secretary of a Co-operative Society for more than six years, either consecutively or intermittently. The 3rd

respondent having served the 5th respondent Society for a continuous period of six years shall not be eligible either for election or appointment or to continue as President of the 5th respondent Society after the expiry of 10-4-1997. As he did not vacate the office, the committee of management of the 5th respondent society at its meeting held on 29-6-1997 resolved to request the 2nd respondent therein to take appropriate action in accordance with law. The 2nd respondent issued a notice dated 17-7-1997 "requesting" the 3rd respondent to relinquish the office in view of the statutory provision. The 3rd respondent did not comply with the notice. The petitioner and two other members of the committee of management filed a dispute before the 2nd respondent to remove the 3rd respondent from the office of the President of the 5th respondent-Society. In the meanwhile, the 4th respondent who is the State Minister of Animal Husbandry in the State of Karnataka appeared to have sent a note to the Minister for Co-operation to issue direction to the authorities concerned to continue the 3rd respondent as the President of the 5th respondent-Society by granting exemption u/s 29D of the Act, in exercise of the power u/s 121 of the Act. The Minister for Co-operation issued direction to the Secretary, Department of Co-operation to issue necessary order u/s 121 of the Act granting exemption u/s 29D of the Act in Public Interest to provide opportunity to the 3rd respondent to continue as the President of the said Society. Accordingly, the State Government issued a notification dated 6-8-1997 exempting the 5th respondent-Society u/s 29D of the Act, in exercise of its power u/s 121 of the Act as per Annexure-F. Consequent upon the said notification, the 2nd respondent made an order dated 28-8-1997 dismissing the dispute filed by the petitioner and others as per Annexure-G.

3. The petitioner having been aggrieved by the said notification and the order has filed the first petition for quashing Annexure-F and G by issuing a writ of certiorari with a further prayer to issue a appropriate writ in the nature of mandamus directing respondents 2 and 5 to hold election to the office of the President of the 5th respondent-Society declaring that the 3rd respondent ceased to be the President thereof.

4. The facts in the second case are no different from the facts in the first case. The petitioner therein is one of the Directors of the 2nd respondent-Co-operative Bank. The 3rd respondent is the President of the 2nd respondent. It is stated by the petitioner that the 3rd respondent has been the President of the respondent 2-Bank; from 8-11-1985; and he continued to be so, even after expiry of the period of six years prescribed by Section 29D of the Act, by virtue of successive notifications issued by the Government in exercise of its power u/s 121 of the Act exempting the 2nd respondent from the provisions of Section 29D of the Act. The State Government invoked Section 121 of the Act on more than one occasion to facilitate the 3rd respondent to continue as the President of the 2nd respondent bank in public interest. When the notification dated 23-9-1995 issued by the Government in exercise of its power u/s 121 of the Act, was about to be expired by the end of 22-9-1997, the State Government issued another notification dated

11-9-1997 u/s 121 of the Act, again exempting the 2nd respondent bank from the provisions of Section 29D(1) of the Act from 23-9-1997 to 22-9-1998.

5. The petitioner having been aggrieved by the said notification filed this petition for quashing the notification dated 11-9-1997 issued by the first respondent Government as per Annexure-C.

6. Sri Jayakumar S. Patil, learned Counsel appearing for the petitioners in both the petitions has contended that the State Government issued the impugned notifications only for the benefit of respondent 3 to facilitate them to continue in office in violation of the statutory restrictions imposed by Section 29D of the Act; No public interest is involved in the issuance of the notifications; The impugned notifications have been issued by the State Government in mala fide exercise of its powers solely to facilitate the respondent 3 in both the petitions to continue in office of the President of the respective co-operative institutions without having any due regard to the restrictions imposed by the statute u/s 29D of the Act. Sri Jayakumar S. Patil has further contended that the impugned orders are unsustainable in law as having been issued by the first respondent arbitrarily, unreasonably and to promote the interest of an individual instead the public interest.

7. Sri Gopal Hegde, learned Counsel appearing for the 2nd respondent in the 2nd petition has contended that the petitioners have no locus standi to assail the impugned order; In the absence of any material being placed as to the unreasonableness, the orders cannot be held to have been issued in arbitrary exercise of power; It is his contention that the impugned order has been issued in the interest of the cooperative bank as the 3rd respondent has served the bank for all these years effectively and to the best interest of the farming community.

8. Sri R.I. Disa, learned HCGA supporting the impugned orders has contended that Section 121 would be invoked by the Government in the interest of the Societies concerned wherever there is necessity. It is his contention that, in order to assist the society by not depriving the services of an otherwise desirable person being disqualified from getting elected as the President the orders like the impugned orders are necessary. He further contended that the cause for making the orders like the impugned orders is no doubt the performance of an individual, but that itself is not sufficient to declare the order illegal on the ground that it is made for the benefit of an individual and not of the Society. He also contended that the petitioner has no locus standi to question the legality or otherwise of the impugned order.

9. Sri R. Ravi, learned Counsel appearing for the respondent 3 in the 2nd petition has contended that the impugned notification has been issued exempting the society from the provisions of Section 29D of the Act, and not the 3rd respondent, by Government in exercise of its power u/s 121 of the Act. As the impugned notification is not in favour of an individual it should not be set aside

merely on the ground that it facilitates the individual to continue in office as there is no prohibition for another person to contest the election to the office of the President. It is his further contention, in the absence of any allegations as to the mala fides the order must be construed as the order made in good faith and in the public interest.

10. The constitutionality of Section 121 of the Act is no longer *res Integra* as the same has been upheld by this Court in more than one case.

11. This Court in *G. Venkata Naidu v Bellary Central Co-operative Stores Limited and Others*, while upholding the validity of Section 121 of the Act, has held as follows.-

"In view of the above pronouncement of the Supreme Court it is clear that the conferment of power u/s 121 of the Act cannot be invalidated on the ground of mere possibility of abuse of such power by Government which is a high authority. If in any particular case it is established that the exercise of power by Government is arbitrary or discriminatory, then the exercise of such power by Government will be struck down by Courts".

12. In the light of the aforesaid observation, it is now necessary to consider the rival contentions of the parties to decide, whether exercise by the Government of the powers vested in it u/s 121 of the Act is either arbitrary or in public interest.

13. The orders impugned in both the petitions reads as under.-

The impugned order in W.P. No. 27574 of 1997, reads as under:

In view of the contents of the impugned orders, it is contended by the learned Counsel appearing for the respondents that, the impugned orders have been made only in respect of the Co-operative Societies and not in favour of any individual. The orders impugned are, therefore, strictly in accordance with Section 121 of the Act.

14. It is contended by Sri Jayakumar S. Patil, learned Counsel appearing for the petitioners that though the impugned orders have been made in respect of the Co-operative Societies, they have been made specifically to facilitate respondent 3 in the respective petitions to continue in the office of the President because of their performance as such.

15. In both the petitions, the State Government has filed their statement of objections. In the statement of objections filed in W.P. No. 24532 of 1997 it is denied that,

"Annexure-F order was issued by the 1st respondent only for the purpose of favouring the 3rd respondent or for the reason that he was the political agent or close associate of the 4th respondent-Minister".

The allegation that the impugned order was passed to circumvent the law is also denied. However, the letter from the State Minister of Animal Husbandry to the

Minister for Co-operation is not disputed. The relevant portion in the statement of objections reads as follows :

"The petitioner in this case has failed to place any material on record even to support a prima facie suspicion that the Annexure-F order u/s 121 is illegal. The mere circumstance that the 3rd respondent happens to be the member of Janata Dal and is acquainted with or an associate of the 4th respondent is not by itself a bar to the passing of an order u/s 121. The exercise of power u/s 121 by the Hon"ble Minister for Co-operation, as seen from the note endorsed on Annexure-D, clearly indicates the exercise of his discretion taking into account the desirability of the 3rd respondent being provided the opportunity to contest for the post of President of the 5th respondent-Society. The public good resulting therefrom, the good track record and high. percentage of loan recoveries, efficient management and the good work done by the 5th respondent-Society have been taken into account. The petitioner has failed to place on record any material whatsoever to show that the 3rd respondent is an otherwise undesirable person to seek or hold office as the President of the 5th respondent society or that any prejudice would be caused if he were to be duly elected as the President in the ensuing election. In the absence of any such material validity of the Annexure-F order is liable to be upheld".

In the statement of objections filed in W.P. No. 27574 of 1997, the State Government has stated as follows:

"5. It is submitted that the 3rd respondent is the president of 2nd respondent-Bank. He has been in the Co-operative movement for the last over 30 years. He himself hails from the fanners family with a rural background. He entered the Co-operative movement as a President of the Co-operative Land Development Bank of Thirthahalli and served in that position for a period of 14 years. At the State level, he initially served as a Director and Vice-President and later as President of this respondent bank. At the same time, he served as Director and member of many of the State level Co-operative organisations. Further, at the National level, he first became the Vice-Chairman of the National Co-operative Land Development Bankers Federations and subsequently elected as Chairman in 1983 which position he continued to hold till 22-3-1990".

The statement of objections continues to narrate the achievement of the 3rd respondent in the following terms.-

"Further, at the International level, he first entered as member of the Central Committee of International Co-operative Alliance and then elected as member of the finance and budget committee and subsequently elected as a member of the Executive Committee of the International Co-operative Alliance [London] in the year 1990 and also member of the Development Committee of International Co-operative Alliance. He is also serving as a member of the General Council of the International Refisan [Bon] West Germany and elected as member of the IRU in 1987 for 4 years and re-elected in the year 1997 and continues on the IRU Board

and the International Permanent Committee for solidarity with peasants and people of Ralestine [Damascus]. He is holding some of the position in National and International level by virtue of his office as a President of the second respondent bank. Recently, 3rd respondent has re-elected as Member of Board of Directors of International Co-operative Alliance. The copy of the order is produced herewith as Annexure-R2. In the event of his ceasing to be a President of the second respondent-Bank in view of Section 29D of the Act, his successor in office will not be in a good position to occupy various positions occupied by him in the National and International level. His participation in various bodies of National and International level is of immense use to the second respondent-Bank, and more particularly in bringing substantial finance to the second respondent-Bank".

It is for these reasons the State Government supports the impugned orders vehemently.

16. By the impugned orders, the State Government exempted the Societies from the provisions of Section 29D of the Act, in exercise of its power u/s 121 of the Act. The reasons for exempting the societies from the provisions of Section 29D of the Act will have to be gathered from the papers produced by the parties and also from the records produced by the learned HCGA. It is seen from the annexures produced by the petitioner in the first petition that the exemption was granted to the 5th respondent-Society from the provisions of Section 29D of the Act only because a request was made by the 4th respondent to the Minister for Co-operation to see that the 3rd respondent is continued as the President of the 5th respondent-Society. No other records are produced for my perusal in support of the reasons mentioned by the State Government in its statement of objections. The very fact that the 3rd respondent is the close associate of the 4th respondent-Minister and the recommendation of the 4th respondent was accepted by the Minister for Co-operation on the very day, without making any inquiry clearly indicates that no other factor was taken into account by the Government in exercise of its power u/s 121 of the Act, excepting the political influence of the 4th respondent brought upon in favour of the 3rd respondent. No inquiry was made by the Minister for Co-operation to ascertain whether there exists any public interest for invoking Section 121 of the Act to exempt the 5th respondent-Society from the provisions of Section 29D of the Act. Mechanical exercise of a power vested in it by law, by an authority, without ascertaining as to the necessity of exercising such power, but on the basis of a recommendation of a third person, to facilitate an individual to continue in the office, in the name of public interest constitutes colourable exercise of the power.

17. It is seen from the records produced by the learned HCGA in respect of the impugned order made by the State Government in respect of 2nd respondent in the 2nd petition that the State Government has adopted the same reasons from 1991 till today to exempt the 2nd respondent-Society from the provisions of Section 29D of the Act, in exercise of its power u/s 121. The case of the 3rd

respondent was recommended every time on the same grounds for the same reasons. The bio-data produced along with the statement of objections filed by the 2nd respondent bank in support of the 3rd respondent is the same as found in the records right from 1991 with some additions. It is seen from the records that the 3rd respondent has no doubt achieved a place for himself in the field of co-operation as the President of the 2nd respondent-Bank and also Vice-President, Director and member of various national and international associations. It is also true that he has been involved in the co-operative movement for nearly three decades. For the last more than a decade he has been the President of the 2nd respondent bank and for the last six years he is being elected as the President of the 2nd respondent-Bank only by virtue of orders issued by the Government u/s 121 of the Act, exempting the 2nd respondent-Bank from the provisions of Section 29D of the Act. From the records, I am not able to comprehend as to what the Government wants to say. Is it the case of the Government that the 3rd respondent is indispensable? or is it the case of the State Government that there is no other person who can occupy the office of the President of the 2nd respondent-Co-operative Bank and work as efficiently as the 3rd respondent does? I do not think that is the case of the Government. It cannot be, yet, the State Government, perhaps with the intention of securing the services of the 3rd respondent for the 2nd respondent-Bank, went on issuing notification after notification exempting the 2nd respondent bank from the provisions of Section 29D of the Act. However laudable the object of issuing such notifications may be, but anything done repeatedly for the same reason for the same purpose, such action becomes not only unreasonable but also arbitrary as it is directed to favour an individual. It is no doubt true that any order made by the Government in exercise of its power u/s 121 would exempt a society from the provisions of the Act; And, though it is directed against the society, the ultimate beneficiary would be the individuals. It is equally true that though the State Government has the authority of law to make an order in exercise of its power u/s 121 of the Act, there is an inbuilt safeguard, as observed by this Court in the case of G. Venkata Naidu, supra, for it shall "not be arbitrary or discriminatory". If, by the impugned orders, the State Government by exempting the societies facilitates the 3rd respondent in each of the petitions to get re-elected on account of their majority, does it not amount to discrimination? Does it not render Section 29D of the Act irrelevant? Is it the object of Section 121 to render any provision of the Act otiose?

18. Section 29D reads as follows:

"29-D. Disqualification for being a President, Vice-President, Managing Director, Treasurer or Secretary.-

(1) No person shall be eligible for election or appointment or to continue as President, Vice-President, Managing Director, Treasurer or Secretary of a co-operative society for more than six years either consecutively or intermittently.

(2) No person who has continued in any one or more of the offices of the

President, Vice-President, Managing Director, Treasurer, Honorary Secretary or other similar officers by whatever designation known, of a co-operative society for a total period of six years or more either consecutively or intermittently, shall be eligible for election or appointment to any of the said offices of such co-operative society until the expiry of three years after he has ceased to hold the last of such offices".

It is seen from the aforesaid provision that it is the person who suffers disqualification, by becoming ineligible for having been the President, Vice-President, Managing Director, etc. for more than six years either consecutively or intermittently, for being elected or appointed or to continue as such. No disqualification is attached to the society by the said provision. Section 121 of the Act confers power on the Government to exempt the societies and it reads as follows:

"121. Power to exempt societies.-

The State Government may by general or special order published in the Official Gazette exempt any co-operative society or any class of societies from any of the provisions of this Act or may direct that such provisions shall apply to such society or class of societies with such modifications as may be specified in the order".

From Section 121, it is seen that the State Government may exempt any co-operative society or class of societies from any of the provisions of this Act. In my considered view, the society may be exempted from any of the provisions of the Act only in respect of the functions of the society to be performed, the powers to be exercised and the duty to be discharged. I do not think that the State Government has any power u/s 121 of the Act to remove, the statutory disqualification of a person from being elected or appointed or continued either as President or as Vice-President by invoking Section 121 of the Act. Such orders are arbitrary in nature.

19. This Court in Channappa Yadwad Vs. The Secretary to Govt. of Karnataka and others, , while considering the legality of the orders made u/s 121 of the Act exempting certain individual members of the Co-operative Societies as also the societies themselves from the operation of sub-clauses (a)(i) and (b)(iv) of sub-section (2) of Section 20 of the Act, has held as follows:

"If an institution mismanages its funds, falls back in its recoveries and falls back in repayment of its debts and if by that act forfeits the right of franchise under the Act, it would not do to give it a turn-around by granting a reprieve from discharging its obligations, thereby enabling it to exercise its franchise to which right or privilege it had become disentitled to under the Act. But more than this, imagine the travesty of the entire thing and of course the paradoxical consequence of allowing a defaulter to exercise his or its right to vote despite denial by the Act. The Act says the defaulter shall not vote. Can the Government say I exempt you from the operation of that injunction and, therefore, you can

vote? The net result, let it not be forgot-ton, would be that a voter disentitled under the law to exercise his franchise is allowed to vote. It is like granting a minor the right to vote although in law he does not possess such a right. It is as fallacious as that. Can it then be said that the blanket reprieve granted by Government in exercise of its powers u/s 121 of the Act is legal and was intended to further the objects of the Act? Nay, it only leads to defeating the several salutary objects of the Act".

One of the salutary objects of Section 29D of the Act is to prevent an individual from holding any office perpetually either on account of the power he wields, the influence he exercise or otherwise and to provide equal opportunity to all, particularly to the less fortunates, to get into the office and to participate effectively in the functioning of a co-operative society, thereby to create a sense of involvement amongst all to promote thrift, self-help and co-operation.

20. The Supreme Court in *The Registrar of Co-operative Societies, Trivandrum and Another Vs. K. Kunjabmu and Others*, , while considering the validity of Section 60 of the Madras Co-operative Societies Act which is analogous to Section 121 of the Act has held as follows:

"12. The policy of the Act is there and so are the guidelines. Why is the legislation? "To facilitate the formation and working of Co-operative Societies". Co-operative Societies, for what purpose? "For the promotion of thrift, self-help and mutual aid". Amongst whom? "Among agriculturists and other persons with common economic needs". To what end? "To bring about better living better business and better methods of production". The objectives are clear; the guidelines are there. There are numerous provisions of the Act dealing with registration of societies, rights and liabilities of members, duties of registered societies, privileges of registered societies, property and funds of registered societies, inquiry and inspection, supersession of committees of societies, dissolution of societies, surcharge and attachment, arbitration etc. We refrain from referring to the details of the provisions except to say that they are generally designed to further the objective set out in the preamble. But, numerous as the provisions are, they are not capable of meeting the extensive demands of the complex situations which may arise in the course of the working of the Act and the formation and the functioning of the societies. In fact, the too rigorous applications of some of the provisions of the Act may itself occasionally result in frustrating the very objects of the Act instead of advancing them. It is to provide for such situations that the Government is invested by Section 60 with a power to relax the occasional rigour of the provisions of the Act and to advance the objects of the Act. Section 60 empowers the State Government to exempt a registered society from any of the provisions of the Act or to direct that such provision shall apply to such society with specified modifications. The power given to the Government u/s 60 of the Act is to be exercised so as to advance the policy and objects of the Act, according to the guidelines as may be gleaned from the preamble and other provisions which we have already pointed out, are

clear".

21. The issuance of repeated notifications by the State Government in exercise of its power u/s 121 of the Act, to facilitate an individual to continue in the office, is not to advance the policy and objects of the Act, according to the guidelines as may be gleaned from the preamble and other provisions but to defeat the other salutary objects of the Act.

22. The Supreme Court in *Dr D.C. Wadhwa and Others Vs. State of Bihar and Others*, , while considering the intention of Article 213 of the Constitution of India has held as follows:

"The power to promulgate to an Ordinance is essentially a power to be used to meet an extraordinary situation and it cannot be allowed to be "perverted to serve political ends". It is contrary to all democratic norms that the Executive should have the power to make a law, but in order to meet an emergent situation, this power is conferred on the Governor and an ordinance issued by the Governor in exercise of this power must, therefore, of necessity be limited in . point of time. That is why it is provided that the Ordinance shall cease to operate on the expiration of six weeks from the date of assembling of the Legislature".

The Supreme Court further proceeded to hold that.-

"It is settled law that a constitutional authority cannot do indirectly what it is not permitted to do directly. If there is a constitutional provision inhibiting the constitutional authority from doing an act, such provision cannot be allowed to be defeated by adoption of any subterfuge. That would be clearly a fraud on the constitutional provision".

23. It is, therefore, clear that "a power to relax the occasional rigour of the provisions of the Act and to advance the objects of the Act" should not be allowed to defeat the salutary provisions of the Act by resorting to such powers repeatedly to facilitate an individual to reap the benefit therefrom.

24. This Court in *Subbarayappa N.A. v Registrar of Co-operative Societies and Another*, following an unreported decision of this Court in *Vyavasaya Seva Sahakara Sangha Niyamitha, Bonnaikanahalli v State of Karnataka*, has held that.-

"In clear, unambiguous and emphatic terms Section 29D of the Act expressly prohibits a person to be eligible for election or appointment or to continue as President, Vice-President, Managing Director, Treasurer or Secretary of a Co-operative Society for more than six consecutive years. The persons holding the offices referred to therein for more than six consecutive years are made ineligible for election or appointment or continuance, except those that are protected by the proviso to that section. The proviso applies only to persons holding several offices on the day the amending Act came into force namely on 23-9-1975 but not to others. In all other cases the prohibition for being elected, appointed or

continued is absolute and admits of no exception. So far as persons elected to the offices of a Society on and after 23-9-1975, their continuance beyond a consecutive period of 6 years is absolutely prohibited and admits of no exception at all".

It has further held that.-

"As a rule negative terms are employed in a provision to make that provision peremptory or mandatory. The use of the word "shall" in a proviso raised a presumption that that provision is peremptory or mandatory, though the same is not always decisive. Section 29D(1) of the Act, which commences with negative terms also employs the term "shall". On the application of the above and all other relevant principles and in the context, Section 29D(1) without any doubt is A peremptory or mandatory provision, the violation of which is neither permissible nor can be condoned by a Court on any ground".

The Division Bench of this Court in Vyavasaya Seva Sahakara Sangha Niyamitha's case, supra, has held as follows:

"That being so, it becomes clear that if he has been already a President for more than six years, he cannot continue as such after the coming into force of the present section in 1975. It is on record that there was an election earlier in 1977. That being so, he cannot now continue as president after six years. It is not necessary that any authority should terminate his Presidentship; The section states that ipso facto he shall cease to be a President".

25. It was contended by the learned Counsel appearing for the respondents that in the absence of any allegations as "to the mala fide exercise of power, the impugned orders must be presumed to have been issued by the Government in proper exercise of its power. In that context they relied on Jute and Gunny Brokers Ltd. and Another Vs. The Union of India (UOI) and Others, , where it is held that in the absence of allegations of mala fides the order should not be held invalid and they must be taken to have been made fairly and objectively. There is no dispute so far as the proposition of law as advanced by the learned Counsel appearing for the respondents. However, the question to be considered is, whether the State Government has exercised its power fairly and reasonably. A power vested in the Government to relax the occasional rigour having been exercised repeatedly and continuously in favour of an individual itself constitutes the arbitrary exercise of power.

26. As could be seen from the records produced by Sri R.I. Disa, learned HCGA, it is clear that the State Government exempted the 2nd respondent-Co-operative Bank from the provisions of Section 29D of the Act in exercise of its power u/s 121 of the Act. First in 1991, Secondly in 1994 and thirdly in 1995 and presently in 1997, substantially for the same reason on the same grounds. The 3rd respondent made the representation to the State Government to exempt the 2nd respondent-Society from the provisions of the Section 29D of the Act furnishing the same bio-data. The same bio-data has been made use of by the persons

concerned to exempt the Society from the provisions of Section 29D of the Act. Every time, the same reasons are being assigned. It is, therefore, clear that the State Government invoked Section 121 of the Act in order to facilitate an individual to continue in office perpetually merely because he has been on the committees of national and international organisations. The statement of the first respondent that "Annexure-C order has been passed in exercise of power on account of the 3rd respondent's local, national and international credentials and reputation as a co-operator, in addition to the good work done by him for the 2nd respondent" indicates the lack of objective assessment of the man and matters by the Government. The State Government and the 2nd respondent appear to be under the impression that the services of the 3rd respondent is indispensable. It is well-settled that no man is indispensable to any system; There are always more than one person equally competent, if not more, to execute the work of any institution as is being done by the present incumbent. Even otherwise, a question would arise as to how long the Government would continue to make such orders to keep the 3rd respondent in office? A decade! Two decades! ! or for ever? The salutary object of Section 29D of the Act being to prevent an individual from holding the office perpetually and to allow others also to take charge of the administration, gain experience and be useful to the society more effectively and efficiently, the impugned orders would virtually negate such objects.

27. In the result, these petitions are allowed. The order dated August 6, 1997 made by respondent 1 as per Annexure-F and the order dated August 23, 1997 made by respondent 2 as per Annexure-G in W.P. No. 24532 of 1997 and the order dated September 11, 1997 made by respondent 1 as per Annexure-C in W.P. No. 27574 of 1997 are hereby quashed. A direction shall issue to the 2nd respondent in each of the petitions to take steps for the election of the new President.

28. In the circumstances of the case, there is no order as to costs.