
(1980) 11 KAR CK 0012
In the Karnataka High Court
Case No : W.P. 21570/80

D. Mahalingaiah

APPELLANT

Vs

Tahsildar and Returning Officer Chikkanayakanahalli and
Another

RESPONDENT

Date of Decision : 26-11-1980

Acts Referred:

Karnataka Co-operative Societies Rules, 1960 — Rule 14(2)

Citation : (1981) 1 KarLJ 158

Hon'ble Judges : G. N. Sabhahit, J

Judgement

This writ petition is instituted by D. Mahalingaiah making a grievance of the fact that the calendar of events issued by the Tahsildar, who is appointed as returning officer for the election of the members of the Managing Committee has fixed the last date for filing the nomination by proposer as before 3 p.m. on 20-11-1980 and last date for filing nomination by self as before 3 p.m. on 21-11-1980.

The present writ petitioner filed his nomination through his proposer on 21-11-1980 and accordingly his nomination is rejected as it is filed after the date and time fixed for filing nomination through proposer. It is that order of rejecting the nomination that is challenged, before me, in this writ petition. The learned counsel appearing for the writ petitioner pressed on me that the calendar of events published by the Tahsildar is not in accordance with the provisions of R. 14 of the rules framed under the Co-operative Societies Act, 1959. R. 14(2) reads:

"A member desirous of standing as a candidate to the committee or management shall give notice in writing of his desire to the President of the Society or any other officers only authorised by the committee or Management in this behalf at least seven clear days before the meeting. A member may nominate any other member or members, who are qualified to be chosen for the committee. The nomination paper shall indicate that the consent of the candidates proposed has been obtained in writing and such writing together with the nomination paper

shall be delivered to the President of the society or any other officer duly authorised by the committee or Management in this behalf at least six clear days before the meeting. The names of candidates whose nomination papers are not accompanied by the writing of the candidates showing consent or received after the prescribed time, shall not be included in the ballot paper or voting slip".

Thus, sub-rule (2) of R. 14 makes it clear that the nomination paper received after the prescribed time shall not be included in the ballot paper or voting slip. It is relying on this clause that the nomination paper of the present writ petitioner is rejected as having been received after the prescribed time.

The learned counsel appearing for the writ petitioner, however, submitted that the returning officer should have fixed the date for receiving the nomination till seven days prior to the date of the meeting. In the instant case the meeting is fixed on 30th. Therefore, he submitted that the last date for receiving the nomination should have been fixed by 23rd November, 1980. With great respect to the learned counsel, I am not able to agree with him. All that R. 14(2) states is that a member desirous of standing as member of the committee of Management shall give notice in writing at least 7 clear days before meeting and towards end of that rule it says ""the names of candidates whose nomination papers are not accompanied by the writing of the candidates showing consent or received after the prescribed time, shall not be included in the ballot paper or voting slip. That shows that a time shall be prescribed by the returning officer and that it shall be at least 6 or 7 clear days before the Meeting, as the case may be. It does not mean that it shall be fixed so as to give a gap of 6 or 7 clear days only. All that it says is it shall not be less than that. It necessarily means that it may be a little more than that and in the instant case the Tahsildar who is the returning officer has fixed the last date for filing nomination by proposers as 20-11-1980 before 3 p.m. and the date of meeting is 30-11-1980. Therefore he has left 9 clear days which is more than 7 days and it is perfectly valid and legal. The nomination paper which is received beyond the time is rightly as it cannot be included in the ballot paper or voting slip as prescribed by R. 14(2).

In the result, there is no substance or arguable point in the present writ petition and the same is dismissed in limine.