

(2000) 11 KAR CK 0006
In the Karnataka High Court
Case No : Writ Petition No. 37812 of 1997

Dr. Hampa Nagarajaiah

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 02-11-2000

Acts Referred:

Karnataka Societies Registration Act, 1960 — Section 25

Citation : (2001) 1 KCCR 123

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : H. Pillappa and Jagadeesh Mundargi, for the Appellant; A. Padmanabhan, High Court Government Pleader, for the Respondent

Final Decision : Allowed

Judgement

V. Gopala Gowda, J.—By the impugned order at Annexure-C dated 24.5.1988 the 3rd Respondent appointed the 4th Respondent to conduct enquiry, determine the amount alleged to have been misappropriated by the Petitioner belonging to Kannada Sahitya Parishad and to recover the same. The Petitioner submitted a representation as per Annexure-D dated 2.11.1988 requesting to furnish certain documents. It was followed by a remainder at Annexure-E. He also filed objections to the impugned order at Annexure-C. It was contended that the 3rd Respondent had no jurisdiction to appoint the 4th Respondent. The 4th Respondent passed the impugned order at Annexure-G on 24.11.1997 ordering to call upon the Petitioner to pay the amounts mentioned in the report of Justice Shamsunder Commission of Enquiry. It was followed by the demand notice at Annexure-K. The Petitioner has filed this writ petition seeking to quash the impugned orders at Annexures-C, G and K respectively.

2. Statement of objections is filed on behalf of the Respondents justifying the impugned orders and notice.

3. The impugned order at Annexure-C is passed by the 3rd Respondent

appointing the 4th Respondent as Enquiry Officer in exercise of the purported powers conferred u/s 25 of the Karnataka Societies Registration Act. The said provision is referable to the functioning or working conditions of the societies. It does not prescribe enquiry into the alleged misappropriation. Therefore, the impugned order at Annexure-C is without jurisdiction and the same is liable to be quashed.

4. It is for the Kannada Sahitya Parishad to take necessary action in the matter by initiating appropriate proceedings against the Petitioner.

5. So far as the impugned order at Annexure-G is concerned, since it is held that the appointment of 4th Respondent by the 3rd Respondent is without jurisdiction, the same also cannot be sustained. Added to this, there is no determination of alleged misappropriation in the said order. Further, the objections filed by the Petitioner has not at all been considered. It follows that Annexure-G is unsustainable.

6. The demand notice at Annexure-K is issued based upon the order at Annexure-G which is liable to be quashed. Consequently, the demand notice also to be quashed.

7. For the reasons stated supra, this Writ Petition is allowed and the impugned orders at Annexures-C and G and the notice at Annexure-K are hereby quashed. Liberty is reserved to Kannada Sahitya Parishad to initiate appropriate proceedings against the Petitioner as indicated above in accordance with law.