

(2015) 03 KAR CK 0369

In the Karnataka High Court

Case No : Writ Petition No. 2155 of 2015 (APMC)

H.M. Rajappa

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 27-03-2015

Acts Referred:

Citation : (2015) 2 AKR 830 : (2015) ILR Kar 2933 : (2015) 3 KarLJ 403 :
(2015) 3 KCCR 2570

Hon'ble Judges : H.G. Ramesh, J

Bench : Single Bench

Advocate : Muralidhar B.N., for the Appellant; A.C. Balaraj, Advocates for the Respondent

Final Decision : Dismissed

Judgement

H.G. Ramesh, J.

1. If a person elected to the Karnataka State Agricultural Marketing Board as per Section 101(1)(ii) of the Karnataka Agricultural Produce Marketing (Regulation and Development) Act, 1966, ceases to be a member of the Electorate of the Revenue District concerned, will he cease to be a member of the Board in view of Section 104 of the Act? This is the question that needs to be answered in this writ petition.

The question is answered in the affirmative.

In this writ petition, the petitioner has sought for a declaration that he continues to be a member of the Karnataka State Agricultural Marketing Board ("the Board") till 2nd May, 2016, on the ground, that as per Section 106 of the Karnataka Agricultural Produce Marketing (Regulation and Development) Act, 1966 ("the Act"), his term of membership of the Board is co-terminus with his membership of the Agricultural Produce Market Committee, Chennagiri. It is stated that the petitioner's term of membership of the APMC, Chennagiri, is upto 2nd May, 2016.

2. To examine the question raised in this petition, it is relevant to extract Sections 101, 104 and 106 of the Act. They read as follows:

"101. Composition of the State Marketing Board.--(1) The Board shall consist of the following members, namely.--

(i) The Minister of the State in-charge of agricultural produce marketing who shall be the ex officio Chairman of the Board;

(ii) One person from each Revenue District of the State who shall be a Chairman of a market committee in the district elected in the prescribed manner by an electorate consisting of the Chairman of all market committees in such district;

(iii) the Secretary to Government, Department of Co-operation or his nominee, ex officio;

(iv) the Secretary to Government, Department of Agriculture or his nominee, ex officio;

(v) the Director of Agricultural Marketing:

Provided that where in any Revenue District there are only two market committees and both the Chairmen are contesting candidates for election from such district, the person to represent the market committees on the Board shall be decided by lot to be drawn by the Returning Officer:

Provided further that where in any Revenue District there is only one market committee, the Chairman of such committee shall be the member of the Board.

(2) The Board shall elect a Vice-Chairman from among the elected members.

(3) The Director of Agricultural Marketing shall ex officio be the Managing Director of the Board.

104. Cessation of membership of elected members of the Board.--A member elected under clause (ii) of sub-section (1) of Section 101 shall cease to be a member of the Board if he ceases to be a member of the electorate of Chairmen of the market committees concerned.

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106. Term of office of the members of the Board.--The term of office of the elected members of the Board shall, save as otherwise provided in this Act, be co-terminus with the term of office of the members of the market committee:

Provided that the term of office of the elected members of the Board shall be deemed to have been continued till the term of office of the duly elected members commences".

(emphasis supplied)

3. A conjoint reading of Sections 101, 104 and 106 of the Act will show that any

person elected to the Board as per Section 101(1)(ii) of the Act shall cease to be a member of the Board, if he ceases to be a member of the Electorate which consists of Chairmen of all market committees in the Revenue District concerned. In other words, if he ceases to be a Chairman of a market committee in the district concerned, he shall cease to be a member of the Electorate, and, consequently shall cease to be a member of the Board. The term of office of the members of the Board stated in Section 106 of the Act is subject to Section 104, in view of the words "Save as otherwise provided in this Act" incorporated in Section 106 of the Act. Hence, Section 104 has overriding effect on Section 106.

4. Coming to the present case, it is not disputed by the learned Counsel for the petitioner, that the petitioner has ceased to be the Chairman of the Agricultural Produce Market Committee, Chennagiri, in Davanagere District and that, presently, he is only a member. If that be so, as stated above, he would cease to be a member of the Board in view of Section 104 of the Act. As the petitioner has ceased to be a member of the Electorate of Davanagere District, which consists of Chairmen of all Market Committees in Davanagere District, he also ceases to be a member of the Board. Hence, question of his continuing as a member of the Board does not arise. The writ petition is devoid of merit.

Petition dismissed.