

(1999) 06 KAR CK 0061
In the Karnataka High Court
Case No : Writ Petition No. 8986 of 1999

H.T. Dhananjaya and others	Vs	APPELLANT
State of Karnataka		RESPONDENT

Date of Decision : 18-06-1999

Acts Referred:

Citation : (1999) ILR (Kar) 4114 : (1999) 6 KarLJ 307

Hon'ble Judges : Chidananda Ullal, J

Bench : Single Bench

Advocate : Sri Jayakumar S. Patil, for the Appellant; Sri M.N. Ramanjaneya Gowda, Additional Government Advocate, for the Respondent

Judgement

1. The petitioners herein being the contesting candidates (the petitioners 1 and 2 were also the members of the previous committee members) had filed the instant writ petition to quash the order dated 18-2-1999 passed by the respondent 2-the Returning Officer, whereby he had postponed the election indefinitely and further with a prayer that the respondent 2-the Returning Officer be directed to hold the election in respect of Kanur constituency (one of the 9 constituencies) by refixing the date of poll to complete the election process in pursuance of the calendar of events issued by him, copy as at Annexure-A to writ petition.
2. I heard the learned Counsel for the petitioner, Sri Jayakumar S. Patil. The respondents 1 and 2 are represented by the learned Additional Government Advocate, Sri M.N. Ramanjaneya Gowda. The respondent 3-the Primary Co-operative Agriculture and Rural Development Bank Limited and the respondent 4-the Ex-President of the respondent 3 having been served with notice had remained absent before Court.

3. The learned Counsel for the petitioner, Sri Patil while taking me through the petition averments and the grounds urged in the petition argued that

the respondent 2-the Returning Officer having issued the calendar of events at Annexure-A to writ petition had stopped the election by postponing

the same to be held on a future date by issuing a public notice dated 18-2-1999, copy as at Annexure-E to writ petition. According to him, there

was no good reason for the Returning Officer to do that, particularly, when he had already issued the calendar of events. He had also argued that

the Returning Officer was duty bound to complete the entire process as per the schedule set out by him in the calendar of events issued by him.

4. Sri Patil had also taken me through the resolution that came to be passed by the respondent 3-the Society on 18-2-1999, copy as at Annexure-

D to writ petition, whereby it had passed the resolution to postpone the election. In this connection, it was argued by him that such a resolution

passed by the respondent 3 was totally untenable, particularly, when the State had issued a general circular to say that all the Societies as that of

the respondent 3 to complete the process of election in the general body by the end of 31-5-1999.

5. To sum up the argument of Sri Patil, he had also submitted that there was no valid reason for the respondent 2-the Returning Officer to stop the

very process of election in the mid. Incidentally, he had also pointed out that the candidates contested for 8 constituencies out of 9 constituencies

were declared as elected as there was no contest for want of contestants and what was to be done was only to hold the election in respect of only

one constituency, i.e., Kanur. He therefore prayed that the instant writ petition be allowed with cost.

6. The learned Additional Government Advocate appearing for the respondents 1 and 2, defended the action of the Returning Officer. He had also

taken me through the objection statement, the respondents 1 and 2 had filed in the case. According to him, the instant writ petition does not merit

any consideration. He, therefore, prayed that the writ petition be dismissed.

7. The sole point in the instant writ petition, for my consideration is whether there was any justifiable reason for the respondent 2-the Returning

Officer for postponing the very election he had set in motion by issuance of calendar of events or not. No doubt he had issued public notice dated

18-2-1999, copy as at Annexure-E to writ petition, to say that the election that was fixed to held on 20-2-1999 had been postponed as per the order of the Government dated 15-2-1999, but on going through the circular dated 15-2-1999, I do not find any reference for postponing of the election. On a simple reading of the circular, it is clear therefrom that the societies were directed to hold the election by 31-5-1999 and it had also been explained therein as to why such a circular came to be issued. That being so, it is difficult for me to understand as to what prompted the Returning Officer to issue Annexure-E to writ petition. Even if he had taken that the election had to be postponed with general circular dated 15-2-1999 by the State, copy as at Annexure-K to writ petition, he would have completed the entire process in pursuance of the calendar of events at least by 31-5-1999. But that was not what the Returning Officer did. Instead, he had altogether stopped the very process of holding the election in passing the impugned order. I feel it is appropriate to quote the impugned order passed by the respondent 2. The same reads as hereunder:

8. In filing the objection statement by the respondents 1 and 2, I do not find any explanation either for the said illegal action on the part of the

Returning Officer. In this context, I feel it appropriate to refer to what had been stated in para 4 of the objection statement. The same reads as hereunder:

4. This respondent respectfully submits that the allegation that the respondent 4 prevailed over this respondent for postponement of the elections is totally false and it is submitted that this respondent has issued the impugned order in the light of the notification dated 15-2-1999 and it in no way results in miscarriage of justice".

9. On a simple reading of the above, I can only say that in filing the objection statement, the respondent 1 had also substantiated the action on the part of the Returning Officer. It is really surprising that the respondent 1-the State had endorsed the action on the part of the Returning Officer when it had clearly issued a circular to say that the election to the Societies had to be held by 31-5-1999. Therefore, it appears to me that the respondent 2-the Returning Officer without there being any valid reason, cause or excuse had stalled the process of election, he had set in motion by issuance of the calendar of events, copy as at Annexure-A to writ petition,

and in the process, the respondent 2-the Returning Officer made the petitioner on the one side and the respondent 3-Bank to suffer loss because of his illegal action in postponing the election. The said illegal act on the part of the Returning Officer, I feel should not go without being punished, for he cared least to complete the process despite direction by the State to complete the same latest by 31-5-1999. That being so, in my considered view, the writ petition has to be allowed with cost as against him.

In that view of the matter, I pass the following:

ORDER

1. The impugned order 18-2-1999, copy as at Annexure-E to writ petition, passed by the respondent 2-the Returning Officer is quashed.
2. The Returning Officer is hereby directed to continue the election process in pursuance of the calendar of events, copy as at Annexure-A to writ petition, from the stage at which he had stopped and further by refixing the date for the poll. He shall do the same within a period of three weeks from the date of communication of this order. The respondents 1 and 2 are directed to pay the cost of Rs. 500.00 each to the petitioners.
3. The respondent 1-the State at its option is at liberty to recover the said amount from the respondent 2, the Returning Officer.

The writ petition therefore succeeds and accordingly stands allowed with cost as against the respondent 2-the Returning Officer as above. Rule

issued made absolute. The Registry is directed to send copy of this order to respondent 2-Returning Officer forthwith.