

(2000) 06 KAR CK 0080
In the Karnataka High Court
Case No : Writ Petition No. 10712 of 2000

K. Channaiah and others

APPELLANT

Vs

State of Karnataka and others

RESPONDENT

Date of Decision : 12-06-2000

Acts Referred:

Karnataka Co-operative Societies Act, 1959 — Section 30 B

Citation : (2000) ILR (Kar) 2572 : (2000) 5 KarLJ 390 : (2000) 4 KCCR 250 SN

Hon'ble Judges : Kumar Rajaratnam, J

Bench : Single Bench

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

Judgement

1. Heard Mr. Jayakumar Patil, the learned Counsel for the petitioners and the learned Advocate General, the learned Counsel for the respondents.

2. Issue rule.

3. The petitioners are not only members but also candidates for the election to the Committee of the Primary Co-operative Agriculture and Rural Development Bank (2nd respondent). The petitioners in this writ petition challenge the order of the Government, dated 15-3-2000 at Annexure-D and the Corrigendum dated 15-3-2000.

4. A notification at Annexure-D and a corrigendum of the same date was issued by the Government of Karnataka. A perusal of the English translation of the impugned notifications indicate that the Government had exercised powers u/s 30B of the Karnataka Co-operative Societies Act (hereinafter referred to as "the Act") to issue the impugned notifications.

5. It would be appropriate at this stage to deal with Section 30B of the Act (Karnataka State Act 13 of 2000). Section 30B gives certain power to the State Government to issue certain directions in public interest from time to time to the

Co-operative Societies and the societies are bound to comply with such directions.

6. Section 30B of the Act reads as follows.-

"30-B. Powers to give direction in public interest.--(1) Where the State Government is satisfied that in public interest or for the purpose of securing proper implementation of co-operative and other development programmes approved or undertaken by the State Government or for specially safeguarding the interest of the members belonging to the Scheduled Castes, Scheduled Tribes and other Backward Classes and ensuring reservation to persons belonging to such Castes, Tribes or Classes in the services under the Co-operative Societies, it is necessary to issue directions to any class of Co-operative Societies generally or to any Co-operative Society or Co-operative Societies in particular, it may issue directions from time to time and all such Co-operative Societies or the Co-operative Society concerned shall be bound to comply with such directions.

(2) The State Government may modify or cancel any directions issued under subsection (1) and in modifying or cancelling such directions may impose such conditions as it may deem fit.

(3) The State Government may by notification, delegate its power under this section to the Registrar, subject to such restrictions and conditions as may be specified in the notification".

7. Section 30B was originally Ordinance No. 1 of 2000 issued on 25-1-2000. It became an Act on 27th of April, 2000 by Karnataka Act 13 of 2000. The Act received its assent on 27th of April, 2000.

8. On the basis of the power to give directions a notification was issued on 15-3-2000 at Annexure-B.

9. According to the notification issued u/s 30B all elections to Co-operative Societies was to be postponed after 31-3-2000 to 30-6-2000. This notification was issued in public interest on two grounds: (1) Members of the Co-operative Society are actively involved in the election of local bodies; (2) Loan recovery proceedings are in progress. These are the two grounds on which the impugned notification was issued. A corrigendum was issued on the same date bringing to halt the process of election by three months. By such corrigendum it necessarily follows that even if calendar of events have been issued by the Returning Officer, elections should not be proceeded with for three months.

10. English translation of the notification, dated 15-3-2000 and the corrigendum, dated 15-3-2000 reads as follows.-

"Government of Karnataka

No. CMW 31 CLM 2000 Karnataka Government Secretariat, M.S. Building, Bangalore, Dated 15-3-2000. NOTIFICATION

The election to several Co-operative Societies is required to be held by

31-3-2000. The process of election for the local bodies has already started and therefore, members of Co-operative Societies are not in a position to actively participate in the election of the society. Further, the loan recovery proceedings are in progress and therefore, representatives of several Co-operative Societies have sought for postponement of election by at least nine months. It is the primary duty of the Government to provide opportunity to constitute the Committee democratically. If the elections are held on or before 31-3-2000, the members of Co-operative Societies will not be able to actively take part, thereby defeating the very purpose of the election. Therefore, in public interest it is unavoidable to postpone the elections at least by three months.

Hence, in exercise of powers u/s 30B of the Act, the elections to all the Co-operative Societies to be held on or before 31-3-2000 are postponed and such postponed elections shall be held on or before 30-6-2000.

This direction will not apply in respect of the elections to be held in pursuance of any specific orders by the Court.

By order and in the name of the Governor of Karnataka. Sd/- (LEGI PHILIPS) Special Officer, Co-operation Department".

"Government of Karnataka

No. CMW 31 CLM 2000 Karnataka Government Secretariat, M.S. Building, Bangalore, Dated 15-3-2000. CORRIGENDUM

Para 2 of the Notification CMW 31 CLM 2000, dated 15-3-2000 shall be substituted as follows.-

"Hence, the Government in exercise of the powers u/s 30B of the Act, hereby directs to postpone the elections to all the Co-operative Societies which are to be held from today onwards by a period of three months, and such postponed elections shall be held between 15-6-2000 to 30-6-2000".

By Order and in the name of the Governor of Karnataka. Sd/- (LEGI PHILIPS) Special Officer, Co-operation Department".

(emphasis supplied by the Court)

11. Three important questions arise for consideration.-

(i) Whether the Government has the power to postpone elections contrary to the mandate in the statute?

(ii) Whether Section 30B gives the power to the Government to postpone elections?

(iii) Where calendar of events have been issued and where the election process has commenced in accordance with law whether by the impugned notification the State can cancel the calendar of events?

12. Let me deal with the first question whether the Government can postpone the election in the teeth of the statute.

13. Mr. Jayakumar S. Patil, the learned Counsel for the petitioners took me through various provisions of the Act and submitted that the Act clearly contemplates that there should be no postponement of the elections under any circumstances when the term of the Committee expires. The object of these salutary provisions was that the democratic institutions must work within the mandate of the law. Of course where a society is not functioning in accordance with the provisions of the Act, Section 31 gives the power to the Registrar to appoint a Special Officer. This is not one such instance where the allegation is that the society is not functioning within the provisions of the Act. The impugned notifications are directed against all the Co-operative Societies in the State.

14. One must read the notification as a general direction to all the Co-operative Societies to postpone the election in public interest. The public interest being that local bodies elections are about to take place and loan recovery proceedings are in progress.

15. Mr. Jayakumar S. Patil, the learned Counsel for the petitioners strenuously submitted that the elections have been postponed even with respect to those societies where Panchayat elections are not being held. It was an omnibus order without application of mind. It was further submitted that loan recovery proceedings always take place on or before 31st of March each year and elections to societies also take place before 31st of March where the period expires. If these two grounds are to be urged, then no elections can take place before 31st of March and it was submitted that it would be contrary to the provisions of the Act.

16. Let us refer to some of the provisions which deal with the mandate of elections in the society. Section 28-B states that the existing Committee shall make arrangements to hold election for constituting the next Committee. Sub-section (2) of Section 28B states that the members of the Committee who have failed to make arrangements for election within the time limit specified shall be deemed to have vacated the office and such members shall not be eligible for election as members of the Committee for a period of five years. Section 28-A(4) states that the term of office of the members of the Committee shall be five co-operative years and they shall be deemed to have vacated the office as such members of the Committee on the date of completion of the term. Section 28-A(4) states that if the new Committee is not constituted on the last day of the expiry of the term, the Registrar or any other officer who is authorised by the Registrar shall be deemed to have assumed charge as administrator. Section 29A states about the commencement of the term of office. Section 29-C(1)(n) states that a member of the Committee which failed to make arrangements for holding election within the time limit incurs disqualification. Section 39-A, sub-section (2) states that every election of the members of the Committee shall be held within 15 days before the date of expiry of the term of office of the Committee. The

date of such general election shall be fixed by the Committee.

17. All the sections referred to above clearly indicate that there cannot be any vacuum at the end of the co-operative year.

18. Section 28A, sub-section (5) reads as follows.-

"If the new Committee is not constituted u/s 29A on the date of expiry of the term of office of the Committee, the Registrar or any other officer within whose jurisdiction the society is situated, and who is authorised by the Registrar, shall be deemed to have assumed charge as Administrator and he shall, for all purposes function as such Committee of management. The Administrator shall, subject to the control of the Registrar, exercise all the powers and perform all the functions of the Committee of the Co-operative Society or any office bearer of the Co-operative Society and take all such actions as may be required, in the interest of the Co-operative Society".

Section 28-A(5) is so stringent that if a new Committee is not constituted on the expiry of the term, the Registrar shall be deemed to have assumed charge as Administrator.

19. Section 28-B, sub-section (2) reads as follows.-

"The members of the Committee who have failed to make arrangements for election within the time limit specified in Section 39-A, shall be deemed to have vacated their office on the last day of the time limit so specified and such members shall not be eligible for election as members of the Committee for a period of five years from the date of expiry of their term".

According to Section 28B(2), if the Committee failed to make arrangements for election at the expiry of the term such members who have failed to make arrangements shall not be eligible to be member of the Committee for a period of five years.

20. In fact Section 29-C(1)(n) goes one step further. Section 29-C(1)(n) reads as follows.-

"A member of the Committee, which failed to make arrangements for holding election within the time limit, incurs disqualification".

According to this section a member of the Committee incurs disqualification if he does not hold elections within the time limit.

21. Section 39A, sub-section (2) reads as follows.-

"Every general election of members of the Committee shall be held within fifteen days before the date of expiry of the term of office of the Committee. The date of such general election shall be fixed by the Committee or in the absence of the Committee by the Administrator or Special Officer".

This section clearly stipulates that election shall be held within fifteen days

before the expiry of the term of office of the Committee. One other aspect which requires attention is Rule 13. Rule 13 was issued under the provisions of the Act. Rule 13 deals with election of the members of the Committee by the general body. Rule 13(3) reads as follows.-

"The election of the members of the Committee shall be held on or before the date specified in the bye-laws, for the expiry of the term of office of the members. If no such date is specified in the bye-laws, the term of office of the members of the Committee shall be deemed to expire at the time of the annual general meeting and the election of the new members shall be held at such annual general meeting:

Provided that the Committee whose term of office is deemed to so expire, shall continue in office till the new Committee is elected and shall thereafter handover charge of the office to such new Committee".

The proviso to Rule 13(3) contemplates that if the new Committee is not formed, the old Committee shall continue in office till the new Committee is elected.

21-A. By this it was clear that for some reason the new Committee is not elected within time it is not the Administrator that will administer the society after the expiry of the term but the old Committee will continue till fresh elections are held.

21-B. By a notification, the proviso to Rule 13, sub-rule (3) was deleted by a Gazette notification, dated 26th of March, 1999. With the deletion of Rule 13 the intent of the Legislature was that the old Committee cannot continue in office after the expiry of the term and for some reason the new Committee fails to deliberately hold elections within the expiry of the term they will be removed and disqualified, then the Administrator will take a charge. This clearly shows that deletion of Rule 13 is one other aspect which cause an obligation on the Committee to conduct election before the expiry of the term.

21-C. Rule 14 was recast in the year 1999. According to Rule 14(1) issued under the Act the Registrar shall appoint an officer of the State Government or local authority as Returning Officer. This rule also indicates that it is only the Registrar who can appoint an officer of the State as the Returning Officer. This also indicates that the Legislature intended the society to be run free from interference by the Government in accordance with the provisions of the Act and the Rules.

21-D. Section 39A also clearly indicates that the elections to the members of the Committee shall be held subject to the Superintendent; direction and control of the Registrar. This is yet another instance where the control and superintendence of elections is assigned to the Registrar and not to the Government. All the provisions of the relevant rules unambiguously indicate that the Government cannot interfere with the process of election nor can the Government post pone the elections. Any postponement of elections without authority of law cannot be sustained merely by resorting the powers u/s 30B.

22. All this clearly show that there is a statutory duty enjoined on the Registrar and on the society to complete the election process for the election of the Committee before the term expires. The Act clearly stipulates that if the Committee fails to complete the election before the expiry of the term of office, they shall stand disqualified to be a member of the Committee of any other society for their act of wilful disobedience of the statute.

23. In this writ petition, the petitioners do not challenge the legality of Section 30-B. What is challenged in this writ petition is the impugned notifications purported to have been issued u/s 30-B.

24. Section 30-B gives power to the State Government to make suitable directions for the proper working of the Co-operative Societies. Directions can be given for safeguarding the interest of the members of the Scheduled Castes and Scheduled Tribes and other Backward Classes to ensure reservation to persons belonging to such castes.

25. By no stretch of imagination can the postponement of the elections be regarded as a step towards the proper functioning of co-operative or to aid development programmes. On the contrary, these directions given in the impugned notifications clearly violate the statutory provisions of the Act with respect to holding of elections before the period expires. These directions have not been given because the society is not functioning in accordance with the provisions of the Act, rules or bye-laws. On the contrary, the impugned notifications clearly go against the tenor of the Act to hold elections in time. Looking at it from any angle these impugned notifications could not have advanced public interest. On the contrary, it is in public interest to hold elections in accordance with the provisions of the Act.

26. The Supreme Court in the case of Bangalore Medical Trust Vs. B.S. Muddappa and others, , held that no general directions can be given contrary to the mandate of the statute. The Supreme Court pronounced as follows.-

"Section 65 the overall power reserved in Government to give such directions to the Authority as it considers expedient for carrying out any purpose of the Act was another provision relied to support an order which is otherwise unsupportable. An exercise of power which is ultra vires the provisions in the statute cannot be attempted to be resuscitated on general powers reserved in a statute for its proper and effective implementation. The section authorises the Government to issue directions to ensure that the provisions of law are obeyed and not to empower itself to proceed contrary to law. What is not permitted by the Act to be done by the Authority cannot be assumed to be done by State Government to render it legal. An illegality cannot be cured only because it was undertaken by the Government. The section authorises the Government to issue directions to carry out purposes of the Act. That is the legislative mandate should be carried out. And not that the provision of law can be disregarded and ignored because what was done was being done by State Government and not the

authority. An illegality or any action contrary to law does not become in accordance with law because it is done at the behest of the Chief Executive of the State. No one is above law. In a democracy what prevails is law and rule and not the height of the person exercising the power".

(emphasis supplied by the Court)

27. The Supreme Court further held at paragraph 20 as follows.-

"Section 65 empowers the Government to give such directions to the BDA as are, in its opinion, necessary or expedient for carrying out the purposes of the Act. It is the duty of the BDA to comply with such directions. It is contended that the BDA is bound by all directions of the Government, irrespective of the nature or purpose of the directions. We do not agree that the power of the Government u/s 65 is unrestricted. The object of the directions must be to carry out the object of the Act and not contrary to it. Only such directions as are reasonably necessary or expedient for carrying out the object of the enactment are contemplated by Section 65. If a direction were to be issued by the Government to lease out to private parties areas reserved in the scheme for public parks and playgrounds, such a direction would not have the sanctity of Section 65. Any such diversion of the user of the land would be opposed to the statute as well as the object in constituting the BDA to promote the healthy development of the city and improve the quality of life. Any repository of power -- be it the Government or the BDA must act reasonably and rationally and in accordance with law and with due regard to the legislative intent".

(emphasis supplied by the Court)

28. The learned Advocate General fairly submitted that no directions can be given if they are contrary to the mandate of the statute. However, he sought to justify the impugned notification stating that it was passed in public interest for the reasons stated in the notification. It was submitted that the object of the exercise in postponing the elections was that all the members should participate in the elections and since the members are busy with the local elections they will not be able to participate in the election.

29. The learned Advocate-General was not able to point out any emergency provision in the statute to enable the Government to postpone the election except Section 30B. The learned Advocate General relied on a judgment of this Court in the case of Basavaraj Nagappa Mailwar Vs. Common Cadre Authority, . It is pertinent to note that Section 30-B was deleted and subsequently reintroduced by Act No. 13 of 2000. The Division Bench of this Court dealt with certain directions given by the Government u/s 30B as it then was. The matter related to directions being given to the societies not to make recruitment of staff for a period of three months since the banks were making indiscriminate appointments by direct recruitment or by promotion and accorded higher scales of pay. Then there was a ban imposed by the Government. The Division Bench of this Court held that such directions were in public interest and therefore the

directions given u/s 30-B is valid.

30. In this particular case the direction given by the impugned notifications clearly violates the provisions of the Act. Postponement of elections without any power under the statute cannot be resorted to by mere directions u/s 30-B. I have already stated that it is not permissible to postpone elections as the law clearly contemplates that elections should be held before the expiry of the period of the Committee. There is no power under the Act to enable the Registrar or the Government to postpone the election. I have referred to all the relevant sections which deal with the mandate of the statute not to postpone the elections. Therefore, it is not known how directions can be given by the Government u/s 30-B to postpone the elections. The Judgment referred to by the learned Advocate-General which upheld the directions given to the banks not to go on for further appointments of staff was clearly within the purview of Section 30-B and was in public interest. However, in this case there is no public interest involved in postponing the election contrary to the statutory provisions of the Act.

31. In the original Act there was Section 121 which gave power to the State Government to exempt societies from any provisions of the Act.

32. Section 121 as it then was in force 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"".

33. Exercising powers u/s 121, the Government used to resort to it by issuing directions postponing the elections. However, Section 121 was omitted by Act No. 25 of 1998 with effect from 15-8-1998. The object of deleting Section 121 from the statute was because the legislature felt that this omnibus power u/s 121 would be detrimental to a society to function in accordance with the provisions of the Act. If that is the understanding for deletion of Section 121 by Act No. 25 of 1998, there can be no ground for postponement of election by resorting to the provisions of Section 30B of the Act and such action cannot be held to be in public interest since it violates the mandate of the statute to hold elections before the expiry of the term of the Committee. Accordingly I hold that the Government has no power to postpone elections contrary to the mandate of the statute. I also hold for the reasons stated above that Section 30B does not give power to the Government to postpone elections. Question Nos. 1 and 2 are answered accordingly.

34. We now come to the next question. The vexed question is whether once the calendar of events is in force and the election comes to a grinding halt because of interruption and when the interruption is lifted, whether the election should continue under the same calendar of events or under the fresh calendar of events.

35. The pronouncements of the Courts clearly indicate that whenever the election is interrupted by an interim order of the Court and finally the petition is dismissed the election must proceed from the stage at which it was interrupted. This in my opinion is the correct position of law.

36. In the case of H.B. Veerabhadra Goud Vs. Returning Officer and Tahsildar, , the Division Bench of this Court held that when any election was stayed by an interim order granted by this Court and the case is finally dismissed, the election should proceed from the stage at which it was interrupted. The Court further held that by the interruption if some time was lost, that time should be made good by the Returning Officer giving opportunity to file nominations. If on the other hand, if the election was interrupted after the last date and time for filing nomination was over, then the election has to be held confining itself to the candidates who filed their nominations prior to the last date subject to some time being given for withdrawal of nomination.

37. This Court in the case of Ankappa v Tahsildar and Returning Officer , reiterated as follows.-

"Whenever this Court interferes by an Interim Order with the process of election and subsequently the Interim Order is vacated, it is from the stage at which the interference takes place, by reason of Interim Order, the concerned authority has to continue the election process and not from the beginning. Of course, if no event has taken place according to the calendar of events, then a fresh calendar of events has to be issued".

38. This Court in the case of H.V. Prasanna v Deputy Commissioner and Returning Officer, Hassan City Municipal Council and Others , the Court held that if the election process is interrupted by the interim order of the Court and if steps had already been taken for holding elections, the Returning Officer shall continue with the original calendar of events on the interim order being vacated. In other words the Court held that once an interim order is vacated the election shall go on in accordance with the original calendar of events from the stage at which it was interrupted.

39. I have dealt with cases which is confined to interim orders granted by the Court in the above cases.

40. This principle of law equally applies with respect to interruption of election in the middle of the calendar of events by an order of the Government. If the Government or any other authority passes an order postponing the election after the issuance of the calendar of events and if that order is without authority of law, then again the election process shall take off from where it was interrupted by the order passed without authority of law. In other words if an authority postpones the elections after the calendar of events was in force and if it is ultimately found that the authority had no power in law to postpone the elections the answer is that one must revert to the original calendar of events from the stage where it was interrupted.

41. To put it simply the principle that applies to the interim orders equally applies to the orders passed by the Government without authority of law.

42. In the case of *Gunjahalli Nagappa v State of Karnataka and Others*, the Court pronounced that the State Government has no power to cancel the calendar of events issued by the Returning Officer and to direct him to issue fresh calendar of events.

43. The State took the matter on appeal. In the case of *The State of Karnataka and Others Vs. Gunjahalli Nagappa and Others*, , the Supreme Court affirmed the Division Bench judgment of this Court in *Gunjahalli Nagappa's* case, *supra*. The Supreme Court at paragraph 12 held as follows.-

"One other question was also raised before us, namely, whether the designated officer can be required to rectify the list of voters for a division, if it can be shown that the list of voters does not correspond exactly with the Electoral Roll for the territorial area of the division, as for example, some voters in a particular house in a Census Block number falling in the division, though shown in the Electoral Roll as such, are, through inadvertence, omitted to be included in the list of voters for the division. It is not necessary for the purpose of the present appeal to decide this question, but we may point out that till the election process has commenced by the issue of notice fixing the calendar of events, there is no reason why the designated officer should not be entitled to rectify such defect in the list of voters and bring the list of voters in conformity with the Electoral Roll. But once the calendar of events is published and the election process has begun, it is extremely doubtful whether any changes can be made in the list of voters for the purpose of setting right any such defect. We, however, do not wish to express any final opinion on this point".

(emphasis supplied by the Court)

The Supreme Court expressed considerable doubt whether the Returning Officer can rectify the defects in the list of voters once the calendar of events is published and the election process has begun.

44. This Court in the case of *Jindappa and Another Vs. State of Karnataka and Others*, , also dealt with postponement of elections by the Deputy Registrar of Co-operative Societies. The Government issued an order postponing the elections of the bank for a period of six months. This Court held at paragraphs 8, 9 and 10 as follows.-

"8. In other words, once a calendar of events were announced, the general rule is that the election shall be held as the original calendar of events and the election should take place with fresh dates subsequent to the disposal of the writ petition or when the interim stay is vacated. Only those dates subsequent to the disposal of the writ petition or when interim order was vacated should be changed. The general rule further is if there is an interim order by the Court after the last date of filing of nominations then, when the stay is vacated, the election

will take place from where it was cut off under the original calendar of events.

9. In this case, admittedly, all events were complete as per the calendar of events, except for holding the election, when the election were to be held, Annexure-F was passed.

10. In that view of the matter, while affirming the order at Annexure-F there will be a direction to the third respondent to conduct the election in accordance with law from the stage from where the election was stopped as a result of Annexure-F and the election will proceed in accordance with law as per the existing calendar of events. It is made clear as per the calendar of events, the tenure shall be only for a period of three years".

45. An unreported judgment of this Court in W.P. No. 11697 of 2000, DD: 30-3-2000, this Court in relation to this very interim notification directed the Returning Officer to conduct the elections in accordance with the original calendar of events without being influenced by the impugned notification.

46. All the pronouncements of Courts lead to one irresistible conclusion that, when once the election process has commenced, it must continue in accordance with the calendar of events. If the election process is interrupted by an interim order of Court or by an Authority and ultimately if it is found that such interruption was not called for, then the election process shall continue in accordance with the calendar of events originally announced and shall take off from the time when the process was interrupted. The third question is answered accordingly.

47. In this case the process was interrupted by the impugned notification on 15-3-2000. Once the notification is held to be bad in law, then the election process shall continue strictly in accordance with law as per the original calendar of events that was issued prior to the impugned notification.

48. Learned Advocate-General comprehending the situation and the legal position fairly and handsomely submitted that where the calendar of events were issued prior to 15-3-2000, the Returning Officer would be directed to proceed with the process of election as per the original calendar of events. He also submitted that where the elections have been held under the original calendar of events prior to 15-3-2000, the election results will be announced forthwith. He further submitted that where the calendar of events were not issued prior to 15-3-2000 a fresh calendar of events will be issued with regard to those societies whose term expired on 31-3-2000. It was also submitted by the learned Advocate-General that the election process will be completed within 60 days from the date of receipt of this order since it takes at least 41 days for completing the formalities of election.

49. This in my opinion is a fair and reasonable solution to the problems faced by nearly 2000 societies.

50. The Registrar of Co-operative Societies, has filed an affidavit, which reads as

follows.-

"I submit that the State Government issued a notification in No. CMW/31/CLM/2000, dated 15-3-2000 and a corrigendum dated 15-3-2000 postponing elections to various societies in the State on the ground that members of several societies whose elections are due are actively participating in the village panchayat elections and the months of March, April, May and June are recovery months of co-operative dues.

I submit that according to the said notification, elections are required to be held between 15-6-2000 and 30-6-2000. I submit that wherever calendar of events were not issued prior to the notification, I undertake to ensure issue of appointment orders for appointing Returning Officers by my subordinate officers to whom powers under the rules have been conferred for such appointments with a further direction to the said Returning Officers to complete the process of elections within 60 days from today. I further undertake that wherever directions are issued by this Hon''ble Court to continue the process of elections from the stage at which it was stopped pursuant to the notification, I will issue necessary instructions to the concerned Returning Officers through my subordinate officers to complete the process of election by rescheduling the dates from the stage at which the elections were stopped within 30 days from today.

I further undertake to issue instructions through my subordinate officers to Returning Officers to declare unopposed, candidates as elected as per Rule 14 of the K.C.S. Rules, 1960 within 20 days from today".

51. In the light of the affidavit filed by the Registrar of Co-operative Societies, I issue the following directions to the Registrar:

(1) Where the calendar of events were issued prior to 15-3-2000 by the Returning Officer of the respective Co-operative Societies, the Returning Officer shall continue with the election process in accordance with the original calendar of events subject to giving some time for the subsequent events in accordance with the pronouncement of the Division Bench judgment of this Court in H.B. Veerabhadra Goad''s case, supra, if the events have passed in time;

(2) Where the elections are over prior to 15-3-2000, the Returning Officers of the each society, shall announce the results as per the original calendar of events;

(3) Where the term expired and no calendar of events were issued pursuant to the notifications dated 15-3-2000, the Registrar shall complete the election process within 60 days from the date of receipt of this order;

(4) Where the calendar of events were issued notwithstanding the notifications dated 15-3-2000, the Returning Officer shall proceed in accordance with the said calendar of events in accordance with law;

(5) No Administrator shall be appointed pursuant to the impugned notifications dated 15-3-2000, pending elections;

(6) This order will not preclude the aggrieved parties from raising a dispute in accordance with law within one month from the date of receipt of this order; and

(7) Where calendar of events were issued prior to the notification and the election process proceeded in accordance with law and where results were announced such elections shall not be affected by the said notification and if any party is aggrieved may raise a dispute in accordance with law within one month from the date of receipt of this order;

(8) Where original calendar of events were issued prior to the impugned notification, the issuance of fresh calendar of events shall stand nullified and the original calendar of events shall prevail subject to some time being given for completion of the process if the time has lapsed on account of the impugned notification.

(9) In view of the affidavit filed by the Registrar, the impugned notification and the corrigendum dated 15-3-2000 have spent itself out.

The writ petition is disposed of accordingly. No costs.

The Government Advocate is directed to communicate the directions issued by this Court to the Registrar for complying the orders of this Court.

Issue copy to the Government Advocate by Friday 16-6-2000.

Issue copy to those Advocates who are affected by the impugned notification on payment.