

(1983) 07 KAR CK 0041
In the Karnataka High Court
Case No : Writ Petition No. 13070 of 1983

K. Saptasagare

APPELLANT

Vs

Assistant Commissioner, Chikodi Sub-Division, Raibag and
Others

RESPONDENT

Date of Decision : 19-07-1983

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka Cooperative Societies Rules, 1960 — Rule 14 (b) (2), 14B

Citation : AIR 1984 Kar 127 : (1983) 2 KarLJ 479

Hon'ble Judges : M.P. Chandrakantaraj URS, J

Bench : Single Bench

Advocate : P.R. Ramesh, for the Appellant;

Judgement

1. Petitioner Shrimant K. Saptasagare is aggrieved by the order of rejection of this nomination passed by the Returning Officer, Raibag Sahakari Sakkare Karkhana Niyamit, Raibag dated 15-7-1983. He claimed to be a member of the said Society which is respondent 2 in these proceedings. It is one of those Societies which falls into the class enumerated under Rule 14 (b), Karnataka Co-operative Societies Rules, 1960 (hereinafter referred to as "the Rules"). The sole ground for rejection of his nomination paper is that the petitioner's name was not in the Voters List. It is further stated in the order which is at Annexure C to the petition that the Managing Director of the factory had informed by his letter that the Board of Directors of the factory had not confirmed the membership in the Second Meeting. Aggrieved by the same the petitioner has approached this Court under Article 226 of the Constitution with a prayer for quashing Annexure-B, the calendar of events for election to the Managing Committee of the 2nd respondent Society and also for a mandamus directing the 1st respondent Returning Officer, to "hold fresh election after preparing voters list in accordance with law.

2. In other words, as is clear from the second prayer, it is a clear admission by

the petitioner that he is not included in the voters list. If he is not a voter. then he cannot contest for election to the Managing Committee of the Society. The difference between the Societies enumerated in sub-rule (b) of Rule 14 of the Rules and the other Societies is that while in the latter class of Societies the Returning Officer is appointed by the Society itself at the General Meeting or earlier, in the case of Societies enumerated in sub-rule (b)-"of Rule 14 of the Rules the Returning Officer is appointed by the Registrar of Co-operative Societies in Karnataka. Clause (2) of sub-rule (b) of Rule 14 of the Rules empowers the Returning Officer to *Perform the duties and functions of his position as Returning Officer in accordance with sub-rule (a) of the said rule and for the purpose of election he shall exercise all the powers and perform all the duties -of the Committee of Management bind of the General Body under the said sub-rule. In other words, the conferment of power on the Returning Officer appointed by the Registrar under sub-rule (b) are the same as those exercised by the Committee of Management or General Body under sub-, rule (a).

3. Sri P. R. Ramesh learned Counsel appearing for the petitioner contends otherwise. It is his argument that in order to hold elections, the Returning Officer should prepare a list of eligible members who are eligible to contest for the office of a member of the Managing Committee of the Society because he has the powers of the General Body and the Committee of Management conferred upon him and there after wards hold tile elections. in other words, he accepts the position that on the date he gave.. notice of his intention to stand as it candidate for election his name was not in the voters list. His grievance is that he should have been included in the list by the Returning officer even before the calendar of events is published.. Apparently, that claim is based on the resolution No. 6 (18) of the Committee of, the Management of the 2nd respondent Society dated 31-12-1982 at which is the petitioner, among others was to be. admitted as a member of the Society. The resolution is to the effect that As requested by the members who have paid: the necessary money they should be treated as member there after wards, nothing appear to have been done either to include them in the Register of members, of the Society or in the voters list by the Committed of Management If that has not been done, I do not see as Returning Officer, the 1st respondent acquires power to admit members fresh and then include their names in the voters list even without an application and then issue calendar of events and conduct the election. A proper understanding of Rule 14 (b) (2).of the Rules is to restrict the powers of the Returning Officer to such details in conducting election after issuing. calendar of events and not in respect of the powers of the Committee of Management or General Body antecedent to the issue of calendar of events. In this view of the matter, there is no substance in this petition and, therefore, the game in rejected without issuing rule.

4. Petition dismissed.