

(2001) 07 KAR CK 0109
In the Karnataka High Court
Case No : Writ Petition No's. 15 to 20 of 2000

M.N. Siddeswarappa and Others

APPELLANT

Vs

The State of Karnataka and Another

RESPONDENT

Date of Decision : 25-07-2001

Acts Referred:

Citation : (2001) 4 KCCR 2584

Hon'ble Judges : R. Gururajan, J

Bench : Single Bench

Advocate : T. Umashankar and Sri Lokesh Malavalli, for the Appellant; G. Nagarajulu Naidu, A.G.A. for Respondent 1 and U.S. Sanjeeva Murthy, for Respondent 2, for the Respondent

Judgement

R. Gururajan, J.—The Petitioners in these cases are the members of the Karnataka Sheep and Sheep Products Development Board (for short the Board). The Petitioners were nominated by the first Respondent in terms of an order at Annexure-"A" dated 14.10.1998.

2. On 13.10.1999, the State Government, in terms of Annexure-B has sought for resignation from the various Boards. In the light of Annexure-"B", the 2nd Respondent issued a letter to each one of the Petitioners seeking for the resignation from the Board. This order is challenged in these petitions. The Petitioners say that they were appointed for a period of 3 years and they cannot be now asked to resign, as sought for by the 2nd Respondent.

3. Heard the Counsel for the Petitioners Sri Lokesh Malavalli. Smt. Shobha Patil, GP is appearing for the State Government and Sri U.S. Sanjeeva Murthy, learned Counsel is appearing for the Board.

4. The learned Counsel for the Petitioners contends that the impugned order require my interference.

5. Per contra, Smt. Shobha Patil, GP and Sri U.S. Sanjeeva Murthy, learned

Counsel, contend that the nomination of the Petitioners is a pleasure appointment. He also says that the pleasure can be withdrawn at any time and the present letter is nothing but the withdrawal of the pleasure by the State Government and it is in consonance with Section 4(4) of the Karnataka Sheep and Sheep Products Development Act, 1973. They also rely on a Judgment of this Court in *Sadanandaiah Vs. State of Karnataka*, .

6. After hearing the learned Counsel on either side, I am of the view that the nomination of the Petitioners is in terms of Section 4(4) of the Act. Section 4(4) reads as under:

(Subject to the pleasure of the State Government, the term of office of the Chairman) and the other members of the Board shall be three years from the date of publication of their names in the official Gazette:

Provided that the term of office of the outgoing members shall be deemed to extend to and expire with the date on which the names of their successors are published in the official Gazette.

7. A reading of the said provision would show that it is a nomination in terms of pleasure u/s 4(4) of the Act. This Court in *Sadanandaiah Vs. State of Karnataka*, has ruled that no reasons are necessary for exercise of pleasure but action not to be malafide one. There cannot be any quarrel over this proposition of withdrawal of pleasure by the Government in terms of Section 4(4) of the Act. But what is being done in the case on hand is an insistence of a resignation from each one of the members. Resignation by a member stands on a different footing than the withdrawal of the pleasure in terms of Section 4(4) of the Act. There is a vast difference between the resignation by a member and withdrawal of pleasure by the Government. The resignation of a member flows from the Petitioner as against the withdrawal of pleasure from the Government. In the guise of exercising the power u/s 4(4), the Respondent cannot insist on the Petitioners to submit their resignation. There cannot be any compulsory resignation in the guise of exercising power u/s 4(4) of the Act. If the Government wants to exercise the power u/s 4(4), nothing prevents them from exercising that pleasure in accordance with law. In the guise of power u/s 4(4), they cannot compel the members to resign from the Board. In these circumstances, I am of the view that the impugned order at Annexure-"C" cannot be said to be in terms of Section 4(4) of the Act. In fact, Annexure-"C" is nothing but a letter by the Secretary seeking for resignation. A Secretary has no power under the Act to seek resignation as sought to be done in the case on hand. Looking from any angle, Annexure-"C" does not stand the scrutiny of law.

8. In these circumstances, these petitions are allowed. Annexure-"C" is set aside. It is made clear that this order shall not be understood as coming in the way of exercising of the power by the Government u/s 4(4) of the Act. Parties to bear their respective costs.