

(2015) 08 KAR CK 0147

In the Karnataka High Court

Case No : Writ Petition No. 41676 of 2014 (S-RES)

N. Krishnoji Rao

APPELLANT

Vs

The Managing Director, Hopcoms

RESPONDENT

Date of Decision : 26-08-2015

Acts Referred:

Karnataka Co-operative Societies Act, 1959 — Section 70

Citation : (2015) 6 KarLJ 602 : (2016) 1 KCCR 291

Hon'ble Judges : R.S. Chauhan, J.

Bench : Single Bench

Advocate : Nandish Gowda for R.B. Sadasivappa, Advocate, for the Appellant;
N. Ramachandra, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

R.S. Chauhan, J.—The petitioner has challenged the order dated 8-4-2014, whereby the petitioner has been denied the appointment on compassionate ground. However, the learned Counsel for the respondent has raised a preliminary objection about the maintainability of the present writ petition. According to the learned Counsel, the petitioner has an alternative remedy under Section 70 of the Karnataka Co-operative Societies Act, 1959 ("the Act" for short). Therefore, if there is any dispute that has arisen between the petitioner and the Co-operative Society, he should first approach the Registrar of Co-operative Societies. Hence, according to the learned Counsel for the respondent, the present petition is not maintainable.

2. The learned Counsel for the petitioner seeks liberty to file petition before the Registrar of Co-operative Societies.

3. Heard the learned Counsel for the parties.

4. Section 70 of the Act is as under:

"70. Disputes which may be referred to Registrar for decision.--(1)

Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management, or the business of a co-operative society arises.--

(a) among members, past members and persons claiming through members, past members and deceased members; or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or employee of the society; or

(c) between the society or its committee and any past committee, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs, or legal representatives of any deceased officer, deceased agent, or deceased employee of the society; or

(d) between the society and any other co-operative society, or a credit agency,

such dispute shall be referred to the Registrar for decision and no Civil or Labour or Revenue Court or Industrial Tribunal shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, namely.--

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor, as a result of the default of the principal debtor whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of a President, Vice-president, Chairman, Vice-Chairman, Secretary, Treasurer or Member of Committee of the society;

(d) any dispute between a co-operative society and its employees or past employees or heirs or legal representatives of a deceased employee, including a dispute regarding the terms of employment, working conditions and disciplinary action taken by a co-operative society notwithstanding anything contrary contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947);

(e) a claim by a co-operative society for any deficiency caused in the assets of the co-operative society by a member, past member, deceased member or deceased officer, past agent or deceased agent or by any servant, past servant or deceased servant or by its committee, past or present whether such loss be admitted or not.

(3) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any Court."

5. According to sub-section (2) of Section 70 of the Act, in case a dispute arises between the heir or legal representations of deceased employee, including a dispute regarding the terms of employment, working condition and disciplinary action taken by the co-operative society, the said dispute comes within the definition of the words "constitution, management or the business of a co-operative society". Therefore, according to sub-section (1) of Section 70 of the Act, such a dispute is to be filed before the Registrar of Co-operative Societies. Since the petitioner has not availed the alternative remedy as provided under Section 70 of the Act, this petition is premature. Liberty is granted to the petitioner to raise a dispute before the Registrar of Co-operative Societies.

With the said liberty, the writ petition is disposed of.