

**(2006) 10 KAR CK 0038**  
**In the Karnataka High Court**  
**Case No : Writ Petition No. 13560 of 2006**

Neelakanthappa

APPELLANT

Vs

The State of Karnataka and Basavaraj Arabagonda

RESPONDENT

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**Date of Decision :** 16-10-2006

**Acts Referred:**

Constitution of India, 1950 — Article 14  
Karnataka Co-operative Societies Act, 1959 — Section 2 (d-1), 29 F (5)  
Karnataka General Clauses Act, 1899 — Section 3 (43)

**Citation :** (2006) ILR (Kar) 4259 : (2007) 1 KarLJ 235

**Hon'ble Judges :** Mohan Shantanagoudar, J

**Bench :** Single Bench

**Advocate :** F.V. Patil, for the Appellant; A.G. Shivanna, GA., for R1, A.N. Venugopal Gowda, for R2 and Krishna Dixit, for R3, for the Respondent

**Final Decision :** Dismissed

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## Judgement

1. The Petitioner has sought for quashing the election notice dated 20.09.2006 vide Annexure-C issued by the respondent No. 2 and also for striking down Section 2(d-1) of the Karnataka Co-operative Societies Act, 1959 (hereinafter referred to as "Act" for short) on the ground that the same violates Article 14 of the Constitution of India.

2. The petitioner herein was elected as President to the Dharwad Co-operative Milk Union ("union" for short), Dharwad for a period of two and half (2 1/2 ) years on 14.10.2004. According to petitioner, his term of 2 1/2 years comes to an end by 13.04.2007 as per English Calendar. Hence, he has filed the present writ petition seeking quashing of the election notice issued by the respondent No. 2 vide Annexure-C. by which, the election are scheduled to be held on 29.09.2006.

3. Sub-section (5) of Section 29-F of the "Act" makes it amply clear that the President shall hold office for a term of two and half years. The word "year" is defined in Section 2(d-1) of the "Act" which reads thus:

2(d-1) Co-operative year or year means the year commencing from the first day of April.

It is also clear from the said definition that the "year" means Cooperative year.

As has been held by this Court in the case of Ravindra Vs. The Assistant Registrar of Co-operative Societies and Another, , where election to the committee has been held in the middle of a co-operative year, for the purpose of computing the term of office of the Committee, the remaining part of the co-operative year shall be deemed to be a co-operative year. I respectfully agree with the said ruling. It is abundantly clear from the said Judgment that even if the petitioner is elected as President to the 2nd respondent on 14.10.2004, the first year or co-operative year is deemed to have been ended on 31.03.2005. If it is so, the term of 2 1/2 years of the petitioner would end by 30.09.2006. In view of the same, the authorities concerned are justified in issuing the impugned election notice to elect the President of the 2nd respondent society and consequently, the first prayer made by the petitioner cannot be granted.

4. The definition of "Co-operative year" or "year" defined in Section 2(d-1) is sought to be challenged on the ground that it violates Article 14 of the Constitution of India. I am at a loss to understand as to how it violates the Article 14 of the Constitution. The petitioner has failed to convince the Court on that aspect of the matter. The petitioner relied upon the definition of the "year" contained in Section 3(43) of the Karnataka General Clauses Act 1899 to contend that "year" means one year as per British Calendar, i.e., 12 months. The said Act is also a Karnataka Enactment. As the Karnataka Cooperative Societies Act is a special and subsequent enactment which deals exclusively with the Co-operative matters, the provisions contained in the Co-operative Societies Act prevail over the definition clause of the "year" contained in the Karnataka General Clauses Act 1899. Section 3 of Karnataka General Clauses Act reads thus:

3. Definitions. - In this Act, and in all (Mysore Acts and Karnataka Acts) made after the commencement of this Act, unless there is anything repugnant in the subject or context. -

(1) xxxx

(2) xxxx

(43) "Year" shall mean a year reckoned according to the British Calendar.

Hence Section 3 of the Karnataka General Clauses Act 1899 itself makes amply clear that the same is applicable unless there is anything repugnant in the subject or context in Karnataka Co-operative Societies Act. As the definition of the word "year" found in Section 2(d-1) of the Karnataka Cooperative Societies Act is repugnant to the definition of "year" found in the Karnataka General Clauses Act 1899, the definition as found in the Karnataka General Clauses Act cannot be made applicable to the Co-operative matters. In view of the same, the second prayer made in the writ petition also fails and consequently, the writ

petition is liable to be dismissed.

The writ petition is, therefore, dismissed. However, it is made clear that since the date of election is already over, it is open for the authority to issue fresh calendar of events to hold election.