
(1979) 07 AP CK 0018
In the Andhra Pradesh High Court
Case No : Writ Appeal No. 138 of 1979

Palli Pentayya Naidu

APPELLANT

Vs

Sirisetti Somaraju and Others

RESPONDENT

Date of Decision : 27-07-1979

Acts Referred:

Citation : AIR 1980 AP 98

Hon'ble Judges : Ramachandra Raju, J; Alladi Kuppuswami, J

Bench : Division Bench

Advocate : A. Pandurangarao, for the Appellant; M.B. Rama Sarma, Govt. Pleader for F. and A., for the Respondent

Judgement

Alladi Kuppuswami, J.—The Deputy Registrar, Co- operative Societies, Yellamanchili, who is the fourth respondent in third appeal appointed Sri K. V. Ratnakar Rao to conduct the election for the Cheedigummala primary Agricultural Co- operative society. Sri Ratnakar Rao accordingly issued a noticed fixing the person-in- charge of the Society fixing 22- 6- 1978 as the date of the General Body meeting for electing the office bearers. On 2-5-1978, the fourth respondent modified his earlier order and appointed Sri G. Suvarnaraju as the Election officer to conduct the election of the office bearers of the Society. In that order, it was specifically stated that the Election officer should continue the election process from the stage at which it was left by Sri Ratnakar Rao and that he should not initiate the election process if it was not started in respect of the Society. Thereafter, Sri Suvarnaraju; issued a notice on 25- 5-1978 fixing the date of the General body meeting for electing the office bearers as 27-06-1978. The respondent herein who is the member of the Society filed writ petition No. 2439 of 1978 questioning the action of Sri Suvarnaraju in postponing the date of election from 22- 6-1978 to 17-6-1978. He also applied for stay of the election. But, this court by its order dated 16-6-1978 rejected the application, but directed that the result of the election would be subject to the result of writ petition.

2. Our learned brother, Gangadhara Rao J. held that the noticed given by the

Election officer postponing the date of election from 22-6-1978 to 27-6-1978 was illegal. He therefore quashed the notice given by the Election officer to give an election programme afresh and hold the election according to rules. Meanwhile, in view of dismissal of the stay petition, the election was held on 27- 6- 1978, and the appellant herein was one of the persons who was elected as an office bearer. As, by reason of the order of this court in the stay petition, his election was subject to the result of the writ petition, and as the writ petition was allowed, his election was invalid. The appellant though not a party to the writ petition became aggrieved and preferred his appeal after obtaining the leave of this court.

3. In holding that the notice postponing the date of election was illegal, Justice Gangadhara Rao referred to Rule 22, sub-rule (5), clause (iv) which provides that the Election officer shall not allow any adjournment of the proceedings except when proceedings are interrupted or obstructed by riot or affray or by causes beyond his control. He held that in this case the proceedings were not interrupted or obstructed by riot or affray or by any cause beyond the control of the Election officer. Hence, the Election officer had no jurisdiction to adjourn the proceedings.

4. Sri Pandurangarao, the learned counsel for the appellant submits that Rule 22-(5) (iv) has no application to the facts of the case. Rule 22 deals with procedure regarding conduct of elections to committees of Societies. Rule 22(2) deals with election programme and directs the Election officer to fix the place, time and date of general meeting at which the election shall be held and communicate it to the committee, the person or persons appointed under sub-section (7) of section 2, the special officer or the managing committee appointed under sub-section (1) of section 34 , or a liquidator appointed under sub-section (1) of section 65 , as the case may be, who shall forthwith supply such information and make available such records and funds as requisitioned by the election officer. A copy of the decision referred to in cl. (a) of sub-rule (2) to hold the meeting at a particular time and place has to be sent to the Registrar in certain cases and to the Regional Joint Registrar in cases of other societies. There after, the Election officer has to send intimation of the time, date and place of the general meeting to each of the member societies and call on it to send the name of its delegate. The election shall be held at a general meeting of the society convened for the purpose of which not less than fifteen clear days" notice shall be given to the members. Rule 22 (4) deals with nomination of candidates and rule 22(5) deals with scrutiny of nomination papers. It is in this rule sub-clause (iv) occurs which provides that the Election officer shall not allow any adjournment of the proceedings except when proceedings are interrupted or obstructed by riot or affray or by causes beyond his control.

It is therefore clear from this provision that this sub-rule applies only to the stage of scrutiny of nomination papers. When that stage is reached, it is provided that the Election officer shall not allow any adjournment of the proceedings

except when they are interrupted or obstructed by riot or affray or by causes beyond his control. We do not consider that this rule has any application to the present case where the date of the general body meeting was postponed at a much earlier stage. To this extent, the contention of the learned counsel for the appellant appears to be justified.

5. But the appellant, in our view, has to fail on another ground. There is no provision under the rules which relates to conduct of elections enabling the Election officer to postpone the date of the General Body Meeting. As has been pointed out earlier, under Rule 22 (2) the Election officer has to fix the time, places and date of the general meeting. This is referred to as a "decision" in Rule 22 (2) (b). Our attention has not been drawn to any provision which enables the Election officer to postpone the date fixed for the General Body Meeting after it has been once fixed under R. 22 (2) (a). It was argued that there is no rule which prohibits the Election officer from postponing the date of the General Body Meetings. This, in our view, is not a correct approach. The powers of the Election officer are strictly limited by the statute, namely, the co-operative societies Act and the Rules made there under. There is no general right apart from the statute and the rules, in the Election officer in the matter of conduct of elections to co-operative societies. We, therefore agree with our learned Justice brother Gangadhara Rao, though on a different ground, that the Election officer had no jurisdiction to postpone the date of election. Even assuming as stated in the counter-affidavit that several formalities had to be complied with and the election could not be held on the date originally fixed, the only course for the Election officer was to have started proceedings afresh and fix the time and place of the meeting under Rule 22 (2) (a).

6. In the result, the appeal is dismissed, but, in the circumstances, without, without costs, Advocate's fee Rs. 100/-

7. Appeal dismissed.