

(1980) 02 KAR CK 0006
In the Karnataka High Court
Case No : WP 8236/76

Patel. K.G. Sreekanta Gowda and Others APPELLANT
Vs
K. Javare Gowda and Others RESPONDENT

Date of Decision : 21-02-1980

Acts Referred:

Karnataka Co-operative Societies Act, 1959 — Section 70

Citation : (1980) 2 KarLJ 101

Hon'ble Judges : Swami, J

Judgement

1. In this petition under Art. 226 and 227 of the Constitution the petitioners, who were the former Directors of the Hosakote Seva Sahakara Sangh Ltd., T. Narasipura Taluk, have challenged the validity of the award passed by the Hony. Arbitrator of Co-operative Societies, Mysore District, Mysore, in Dispute No. 1836 of 75-76 and the order passed by the Karnataka Appellate Tribunal, Bangalore, in Appeal No. 388 of 1976 dated 5-8-1976 confirming the award passed by the Arbitrator.

2. The petitioners came to be impleaded as opponents in the dispute on the ground that they were the Directors of the Society in question at the time when the dispute was filed. During the pendency of the dispute, the election to the Board of Management of the Society in question took place in which respondents 2 to 10 came to be elected and the petitioners were not ejected. Therefore, an application came to be made before the Arbitrator for striking out the names of the petitioners and in their places adding the names of respondents 2 to 10 being newly elected Directors of the Society in, question. The Arbitrator allowed that application and thereafter, he decided the dispute on merits and the Arbitrator has passed an award in favour of the first respondent. Against the award passed by the Arbitrator, neither the Society nor the elected members of the Managing Committee have preferred an appeal. It is the petitioners whose names were struck off from the dispute preferred an appeal. The Tribunal has held that the appellants had no locus standi in the matter and has accordingly dismissed the appeal. In the case of statutory bodies, when the members of the Managing

Commutes are impleaded in their capacity as Members of the Managing Committee and when they once cease to be the members of the Managing Committee and in their place the new members are elected, it is the new members who are entitled to come on record and to continue the proceedings. Therefore, it cannot be said that the Arbitrator acted illegally in striking out the names of the petitioners and in their place substituting the names of the newly elected members. However it was contended on behalf of the petitioners that there is no provision in the Act empowering the Arbitrator to strike off the original parties to the dispute and implead the new parties in their place. This contention is not correct. S. 117(3)(c) of the Co-operative Societies Act specifically provides for such a situation and empowers the Registrar or his nominee to strike out the names of the parties who are not necessary and to implead the persons who are necessary parties to the proceeding. Therefore the contention of the learned counsel that there is no provision empowering the Arbitrator to implead the new parties and to strike out the unnecessary parties cannot be accepted. It was also further contended that the petitioners were entitled to continue the proceeding as members of the Society. The petitioners were not impleaded in their capacity as members of the Society and their right to act as members of the Society has not been questioned in the proceeding in question. The petitioners were impleaded as parties to the proceeding because they were the members of the Managing Committee of the Society at the time when the dispute was filed. When once the petitioners ceased to be the members of the Managing Committee and in their place new members were elected, the petitioners ceased to be necessary parties to the proceeding, therefore the contention that they were entitled to continue as members of the Society cannot be accepted.

3. For the reasons stated above, the decision arrived at by the Tribunal cannot be said to suffer from any illegality or infirmity. Therefore, I do not see any ground to interfere with the award passed by the Arbitrator or the order passed by the Karnataka Appellate Tribunal. Consequently this Writ petition fails and the same is