

(2010) 11 KAR CK 0123

In the Karnataka High Court

Case No : Misc. W. No. 11446 of 2010 in W.P No's. 36595 of 2010 and 36615 of 2010

Primary Co-operative Agricultural and Rural Development
Bank Ltd. and H.T. Nagareddy

APPELLANT

Vs

The State of Karnataka, Dept. of Co-operative Society,
Returning Officer/Joint Registrar Of Co-operative Society and
Karnataka State Co-operative Agricultural and Rural
Development Bank

RESPONDENT

Date of Decision : 26-11-2010

Acts Referred:

Citation : (2010) 11 KAR CK 0123

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : Jayakumar S. Patil, for the Appellant; M. Keshava Reddy, AGA for Respondent Nos. 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

S. Abdul Nazeer, J.—I have heard the learned Counsel for the parties.

2. This Court had passed an interim order on 23.11.2010 permitting the Petitioners to participate in the election to be held on 29.11.2010 for the third Respondent-Bank if they are not disqualified except for the reasons that they have not paid the dues as on 31.3.2010 for the year 2009-10 on or before 15.4.2010 subject to the result of the writ petitions. The said order is in conformity with the order passed by the Circuit Bench of High Court of Karnataka at Dharwad in identical matters viz., W.P. Nos. 68378 to 68379/2010 dated 19.11.2010.

3. In similar matters in W.P. Nos. 84169/2010 and 84172/2010, the Circuit Bench of High Court of Karnataka at Gulbarga had stayed the Government Order dated 17.9.2010 in so far as it relate to the condition relating to recovery of 75% of the total demand of the society and the Petitioners therein were permitted to

participate in the election process. The State Government has filed an application for modification of the said order in the said writ petitions. After hearing the parties, the Court has allowed the writ petitions on 25.11.2010 holding as under:

In that view of the matter, the writ petitions are accordingly allowed. The order Annexure "B" of the State in so far as it relates to imposing the condition to deposit 75% of the demand for the year 2009-10 due as on 31.3.2010 in so far as Petitioners are concerned is quashed and in all other respects, remains unaltered and Petitioners are permitted to participate in the election process.

Thus, the orders passed by the Principal Bench and the Circuit Benches are similar.

4. The Petitioners have filed the application-Misc.W. No. 11446/2010 for a direction to the second Respondent to accept the nomination of Petitioner No. 2 and permit the Petitioners to vote and participate in the election scheduled to be held on 29.11.2010. The contention of the Petitioners is that the interim order passed by this Court on 23.11.2010 has not been properly understood by the third Respondent-Bank. In the endorsement issued by the third Respondent-Bank dated 23.11.2010, it has been stated that the collection of dues has been restricted to the year 2009-10 and not up-to 2009-10.

5. Learned Advocate General appearing for the State contends that the consistent defaulters should not be permitted to contest and vote in the election. On account of unavoidable circumstances if the societies were not able to collect the current dues for the co-operative year 2009-10, a concession has been shown to them under the Government Order at Annexure "F" dated 17.9.2010.

6. There is considerable force in the argument of the learned Advocate General. This Court in the interim order has stated that the Petitioners can participate in the election, if they are not disqualified except for the reasons that they have not paid the dues as on 31.3.2010 for the year 2009-10. This concession is made to such of the societies, who were not able to collect the dues for the year 2009-10 on account of the drought, flood and Coffee Debt Relief Package, 2010. Notifications have been issued by the State Government and the Central Government in this regard. It is also to be noted here that the Petitioners have not sought for clarification of the interim order dated 23.11.2010. The endorsement issued by the third Respondent-Bank dated 23.11.2010 is also not under challenge. Prima facie, I am of the view that the applicants are not entitled for the relief sought for in the application. The application-Misc.W. No. 11446/2010 is accordingly dismissed. No costs.