

(1996) 07 KAR CK 0016
In the Karnataka High Court
Case No : MFA No. 2742/96

S. Rajendran and Others

APPELLANT

Vs

Election Officer, President/Vice-President Elections and Others

RESPONDENT

Date of Decision : 22-07-1996

Acts Referred:

Karnataka Municipalities Act, 1964 — Section 2 (9), 27, 42, 42 (3)

Citation : (1996) ILR (Kar) 3009 : (1996) 6 KarLJ 759

Hon'ble Judges : P. Krishna Moorthy, J;C.N. Aswathanarayana Rao, J

Bench : Division Bench

Advocate : M.J. Yogindra Vikram, for the Appellant;

Final Decision : Dismissed

Judgement

P. Krishna Moorthy, J.—This is an appeal filed u/s 27 of the Karnataka Municipalities Act, 1964 rejecting the application to set aside the election of respondents 2 and 3 as President and Vice-President of the City Municipal Council, Robertsonpet, K.G.F.

2. Under the Karnataka Municipalities Act, a distinction is made in regard to the election of a Councillor and that of President and Vice-President. Sections 21 to 27 deal with the election disputes in regard to the election of Councillors. The election dispute in regard to the election of Councillor has to be decided by the Election Tribunal. The Election Tribunal is defined in Section 2(9) of the Act and it says that Election Tribunal means any judicial officer appointed by notification by the Government to be Election Tribunal in respect of such area and where no such judicial officer is appointed, the Civil Judge having jurisdiction over the area within which the election has been or should have been held.

3. Section 25 of the Act deals with the decision of the Election Tribunal and Section 27 provides that an appeal shall lie from an order of the Election Tribunal u/s 25 to the High Court. It is to be noted that an appeal provided u/s 27 is only against an order of the Election Tribunal u/s 25 of the Act.

4. Election dispute in regard to the election of the President and Vice-President is dealt with u/s 42 of the Act. Section 42(3) of the Act provides that the election of the President or Vice President and any dispute relating to such election shall be subject to the control and supervision of the Government and in accordance with such rules as may be prescribed. The proviso to that Section provides that authority to determine such election disputes shall be such judicial officer as may be prescribed.

5. In regard to the election of President and Vice-President rules have been framed namely, the Karnataka Municipalities (President and Vice President Election) Rules. These rules provide that the judicial officer who is competent to determine the election dispute is the District Judge who is having jurisdiction over the area in which the election takes place. In this case, the District Judge dismissed the Election Petition on the ground that it is barred by limitation and certain other grounds. The question is as to whether an appeal would lie to this Court against the order of the District Judge in such circumstances.

6. As stated earlier, Section 25 of the Act provides for an appeal against the order of an Election Tribunal in the matter of election dispute in regard to the election of the Councillor. So far as the election of President and Vice-President is concerned, Section 42 provides that the disputes in regard to these elections have to be determined in accordance with the provisions contained in the rules and that judicial officer has to be prescribed to determine the election dispute under the Rules. District Judge is nominated as judicial officer as contemplated u/s 42(3) of the Act, but no appeal is provided against an order of the District Judge either under any of the Sections of the Municipalities Act or in the Karnataka Municipality (President and Vice-President Election) Rules. Counsel for appellant contended that Section 25 would comprehend the appeal from the orders of the District Judge in regard to election of the President and Vice-President. We are not inclined to accept this contention. As stated earlier, the right of appeal provided u/s 27 is only against the order of election Tribunal which relates to the election of the Councillor. So far as election of President and Vice-President are concerned, separate rules have been framed and separate judicial officers are nominated. From his decision, no appeal is provided under the Act or rules. In this view of the matter, we think that this appeal is not maintainable.

7. In view of what is stated above, we dismiss this appeal without prejudice to the petitioner seeking any other remedy available to him under Law.

8. Immediately after the pronouncements of the judgment, Counsel for the appellant prayed for leave to appeal to the Supreme Court. We do not think that this is a fit case to grant leave to the Supreme Court as it does not involve any substantial questions of general importance nor do we think any important question arises which has to be decided by the Supreme Court. Accordingly, we decline leave.