

(2022) 08 KAR CK 0029

In the Karnataka High Court

Case No : Writ Petition No. 15803 Of 2022 (CS-EL/M)

S.B. Mahadev

APPELLANT

Vs

State Of Karnataka & Others

RESPONDENT

Date of Decision : 26-08-2022

Acts Referred:

Karnataka Cooperative Societies Act, 1959 — Section 70, 71

Citation : (2022) 08 KAR CK 0029

Hon'ble Judges : S.R. Krishna Kumar, J

Bench : Single Bench

Advocate : Deviprasad Shetty, H.C. Kavitha, T.L. Kiran Kumar, Jayakumar S.Patil, A. Mohammed Thahir, Varun J. Patil

Final Decision : Disposed Of

Judgement

S.R. Krishna Kumar, J

1. In this petition, petitioner has sought for the following reliefs:

(i) Issue a writ in the nature of certiorari quashing Annexure J dated 20.07.2022 in No. Chunavane/viva/02/2022-23 published by respondent No. 8 insofar as the inclusion of the respondent No. 9 in the provisional voters list as a delegate from the respondent 6 from Mandya District at SI No. 61 is concerned.

(ii) Issue a writ in the nature of mandamus directing the respondent No. 8 to include the name of the petitioner in the provisional and final voters list as a delegate from the respondent No. 6 from Mandya District to the elections of the respondent No. 7 federation.

2. Heard learned counsel appearing for both the parties and perused the material on record.

3. The main grievance of the petitioner in the present petition is that the impugned provisional voters list at Annexure-J dated 20.07.2022 has been published by respondent No.8 by including the name of respondent No.9 and by

excluding the name of the petitioner pursuant to the resolution dated 08.07.2022, in which the name of respondent No.9 was included as a delegate for the purpose of election to respondent No.7 – Federation. However, there is no challenge to the said resolution dated 08.07.2022 and the same having been passed by the respondent No.6 – Society, the petitioner would necessarily have to challenge the same by raising a dispute as contemplated under Section 70 of the Karnataka Co-operative Societies Act, 1959 (for short 'the said Act of 1959').

4. The material on record discloses that when the petitioner submitted representations to respondent No.4 – DRCS in this regard and called upon him to conduct a fresh meeting of the members of board of management of respondent No.6 – Society, the respondent No.4 - DRCS has issued an Endorsement dated 22.07.2022 rejecting the claim / request of the petitioner. The said Endorsement dated 22.07.2022 has been produced by the petitioner, who has disputed and denied the legality, validity and correctness of the same.

5. Though several contentions have been urged by both sides in support of their respective claims, without expressing any opinion on the same, I deem it just and appropriate to dispose of this petition by quashing the said Endorsement dated 22.07.2022 reserving liberty in favour of the petitioner to raise a dispute before respondent No. 3 – Registrar of Co-operative Societies under Section 70 of the said Act of 1959 within a period of one week from today. Liberty is also reserved in favour of the petitioner to file appropriate interlocutory applications in the said Dispute seeking suitable reliefs.

5.1 Immediately upon the petitioner submitting the dispute as stated supra before the respondent No.3 – Registrar of co-operative Societies, the same shall be referred by him forthwith and at any rate within a period of four days for adjudication under Section 71 of the said Act of 1959 to any Deputy Registrar of Co-operative Societies other than respondent No. 4.

5.2 Immediately upon the Deputy Registrar of Co-operative Societies takes up the dispute, the said DRCS shall consider the claim of the petitioner and pass appropriate orders on the interlocutory application(s) filed by the petitioner in accordance with law within a period of one week from the date the dispute is referred to him. Needless to state that the respondents shall also be entitled to oppose the said dispute and the interlocutory application(s) filed by the petitioner and also file such application (s) as they deem fit.

5.3 All rival contentions of the parties are left open and no opinion is expressed on the same.

6. Subject to the aforesaid directions and liberty reserved in favour of the parties as stated supra, the petition stands disposed of.