
(1992) 06 KAR CK 0012
In the Karnataka High Court
Case No : Writ Petition No. 6246 of 1992

S.B. Sannaswamy Gowda

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 01-06-1992

Acts Referred:

Karnataka Co-operative Societies Act, 1959 — Section 29(2)

Citation : (1992) 3 KarLJ 479

Hon'ble Judges : P. K. Shyamsundar, J

Judgement

1. I propose to dispose off this writ petition finally having heard both sides on the merits of the case although it appears today in the list of cases posted for orders.

2. The petitioner has had the somewhat unusual experience which has become more common these days of being recalled by the Government after nomination to the Committee of Management of Co-operative Society-the third respondent herein is a society whose nomenclature is the Vevasaya Seva Sahakara Sangha Niyamitha, Hunsur. Petitioner was nominated as Director of the third respondent by Government under order dated 20-2-1992 as could be seen from Annexure-A alongwith two others. That order was purportedly made in exercise of Government's power under Section 29(1) of the Co-operative Societies Act (for short "the Act"). Barely, a week thereafter, for reasons best known to it, the Government passed another order, which is produced herewith at Annexure-C dated 27-2-1992 wherein it sought to recall the petitioner and substituting him by another gentleman by name Ramegowda (4th respondent). The aforesaid order was directed to come into effect immediately.

3. It would appear within a short gap of one week, the petitioner had been elected as President of the Society and is now suddenly disheartened by the Government order substituting the 4th respondent in his place, the petitioner challenges the subsequent order of the Government (vide Annexure-C) replacing him by the other gentleman i.e., 4th respondent herein urging that Government could not make such an order at will and at random. It is also contended that

Government cannot exercise power under Section 29(2) of the Act to make this change which is clearly arbitrary and capricious. That the petitioner having been removed without any reason and it is therefore contended that the impugned order at Annexure-C removing the petitioner and replacing him with respondent-4 must necessarily yield and be quashed.

4. Possibly I should have granted this prayer as there appears enough and considerable force in the submissions made on behalf of the petitioner based on the foregoing grounds urged in the writ petition. From a look at the impugned order, it is just not possible to find out why that order was passed and what compelled the Government to make these changes within just a week of making the earlier order under which the petitioner had made it to the top of the Society, being elected as President. But then all this could be done and possibly there can be no answer, because the petitioner being the nominee of the Government holds office during the pleasure of the Stole Government made abundantly clear by Section 29(2) of the Act, which reads:

"A person nominated as a member of a Committee of a Co-operative Society under sub-section (1) (hereinafter under section referred to as "Nominated member") shall hold office as such member during the pleasure of the State Government."

Met with this blunt circumstance, counsel for the petitioner cited a decision of my brother Chandrakantaraj Urs, J., in *Basava Reddy Ranga Reddy and Others v State of Karnataka and Another*, 1989(3) Kar. L.J. 591. Having gone through that decision I find that the case rested on the point arising for consideration therein, being whether Government was empowered to change the personnel of the first Managing Committee, after nominating the same. The Court held that could not be done because Government after nominating a member to the maiden Committee at the invitation of the Society in virtue of the Bye-law would thereafter be bereft of any further power to deal with the composition of the Committee once over. In other words, it was held that while Government was empowered to nominate the first committee, after having done that, it cannot thereafter again exercise the same power for the second time to reshuffle the first committee. If it did that, it would amount to illegal and wanton exercise of authority. The facts of the case to which I have adumbrated so far and the dictum of the Court therein have no bearing or application to this case. Herein the petitioner is a nominee of the Government and therefore owns and holds that position so long as Government desires. But even while he is there if Court wants to bring somebody else in his place it can of course do so. But the petitioner cannot challenge the very authority of Government under which he held the office for some time before losing it to the fourth respondent. So long as he enjoys the confidence of the Government he continues but once he forfeits their confidence and I suppose that is what has happened in this case, he could be removed by Government. The phrase "shall hold office as such member during the pleasure of the Government" means he is there only so long as Government

desires his presence in the Committee but the moment it pleases to dislodge him and to replace him by somebody else, he has got to vacate the office without any demure. This position is no longer *res integra* and is covered by a Bench decision of this Court in *Siddappa v State of Karnataka*, 1979(2) Kar. L.J. 238. I notice Chandrakantaraj Urs, J. was a party to the said decision along with Jagannatha Shetty, J. as His Lordship then was. In that case. Their Lordships have laid down the principle that a case of removal at pleasure did not attract any procedural regimen and an order made in exercise of such authority did not infringe the principles of natural justice. To some extent the said decision answers the point raised in this writ petition alleging that the Government had removed the petitioner without any rhyme or reason. I am afraid that could be done and the appointee cannot thus take any exception to the subsequent order by which he was displaced.

For reasons mentioned above, this writ petition fails and dismissed.