

(2010) 10 KAR CK 0037
In the Karnataka High Court
Case No : Writ Petition No. 32043 of 2009

Shankara Seva Samithi

APPELLANT

Vs

The State of Karnataka and Sri. N.K. Subramanyam

RESPONDENT

Date of Decision : 21-10-2010

Acts Referred:

Karnataka Societies Registration Act, 1960 — Section 27 A

Citation : (2010) 10 KAR CK 0037

Hon'ble Judges : S.N. Satyanarayana, J

Bench : Single Bench

Advocate : K. Sreedhar Associates, for the Appellant; GA for R1-3, for the Respondent

Final Decision : Allowed

Judgement

S.N. Satyanarayana, J.—This writ petition is filed by Shankara Seva Samithi, a society registered under the Karnataka Societies Registration Act. In this petition the order No. G.OP. No. Sa.e.116 Sa sum. No. 2009. Bangalore, dt.23.10.09 of 1st Respondent is impugned.

2. Brief facts leading to this petition are:

Petitioner society was initially started by 13 founder members of which 4th Respondent is one of three surviving founder members. Said society was started with donations received from benevolent donors, which includes 4th Respondent herein. The society was started with laudable object of propagating preaching of Shankara Bhagawathpadacharya. 4th Respondent and other members of society have been continuously making complaints to Respondents 2 and 3 regarding mismanagement by managing committee of Petitioner society so far as it pertains to enrolling members, maintaining list of members and conducting elections to managing committee.

3. In this behalf, on several occasions Government has passed orders appointing administrator to manage the Petitioner society, which continued up to 1999.

Subsequently election was held, thereafter again based on a petition submitted by 4th Respondent herein on 22.7.2002 the District Registrar of Societies and Firms, namely Sri. Nayaz Ahmed was appointed as enquiry officer to conduct enquiry into the affairs of Petitioner society, who intun submitted his report dated 17.6.2005. Subsequent to the said report Government passed an order appointing an administrator to Petitioner society by its order bearing No. Kam. E. 29. Mu No. So. 2005, dated 26.4.2006, which was challenged by the Petitioner in WP.No. 6484/2006. Said writ petition came to be disposed of on 20.11.2006 with certain directions.

4. Pursuant to the directions issued in W.P. No. 6484/2G06 1st Respondent conducted an enquiry and passed order dated 3.12.2007 appointing the Assistant Commissioner, Bangalore North as Administrator, which was again challenged by the Petitioner in W.P. No. 19792/2007, which came to be disposed of on 22.10.2008, wherein the order of 1st Respondent dated 3.12.2007 was set aside with a direction to Government to hear both the parties and pass necessary orders within four months. Based on the directions issued in W.P. No. 19792/2007 the impugned order is passed by 1st Respondent appointing 3rd Respondent herein as Administrator of Petitioner society for a period of three months from 23.10.2009, which is challenged in this proceedings.

5. On perusal of the aforesaid orders passed by 1st Respondent on several occasions pursuant to complaints of 4th Respondent and as well as directions issued by this Court it is clearly seen that even after appointing Sri. Nayaz Ahmed Khan, District Registrar of Societies and Firms, as enquiry officer and after getting his report Government is dragging its feet for no reason to take a decision on the said report. Though said report is submitted on 17.6.2005 making certain observations regarding enrolment of members to Petitioner society Government has neither taken a decision to accept the said report nor rejected the same, instead is trying to postpone the Issue by keeping it on back burner by temporarily appointing administrator periodically from time to time, which is not what is required to be done by Government.

6. Having secured a report by enquiry officer the temporary measure of appointing administrator would not suffice. The Government is required to take a positive step pursuant to the report submitted by enquiry officer. Before taking a decision on that it is incumbent upon Government to give opportunity to both Petitioner as well as 4th Respondent to substantiate correctness or otherwise of enquiry report dated 17.6.2005 of District Registrar of Societies and Firms, Sri. Nayaz Ahmed Khan. Without doing the same Government is taking a half hearted short-term measure of appointing administrator for 3 months to 6 months at a time u/s 27A of the Societies Act. The said temporary measure can be implemented by Government only for a maximum period of 4 years and that would definitely not solve the problem which is pending for more than 20 years between Petitioner, 4th Respondent and other founder members of Petitioner society.

7. Therefore, 1st Respondent is directed to consider acceptance or otherwise of the enquiry report submitted by Sri. Nazaz Ahmed Khan on 17.6.2005 after giving opportunity to Petitioner, 4th Respondent and also other interested persons and based on that take a decision as contemplated u/s 27A of the Societies Act. The 1st Respondent shall start enquiry proceedings during the first week of December. To fix the date of hearing both the representatives of Petitioner and 4th Respondent shall appear before 1st Respondent on 8.11.2010.

8. On that day 1st Respondent shall fix the date for commencement of enquiry by issuing notice to parties who will be present before him pursuant to the directions issued by this Court and thereafter, within three months the entire process should be concluded without seeking further time. In the meanwhile, until completion of enquiry, 3rd Respondent who is appointed as administrator shall continue to administer the affairs of Petitioner society.

9. With the above observations and directions, this writ petition is disposed of.