

(1999) 11 KAR CK 0016
In the Karnataka High Court
Case No : Writ Petition No. 27310 of 1998

Shanthaveeraswamy and Others

APPELLANT

Vs

State of Karnataka and Another

RESPONDENT

Date of Decision : 02-11-1999

Acts Referred:

Citation : AIR 2000 Kar 153

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : Praveen Kumar Raikote, for the Appellant; V.S. Kulkani, (for No. 4), H.S. Surendra, Govt. Pleader (for Nos. 1 and 2), for the Respondent

Judgement

V. Gopala Gowda, J.—The petitioners, claiming to be the office bearers of Sri Shivayogiswamy Memorial Education Society, Kodla, are seeking to quash the impugned order at Annexure-N dated 4/10-8-1998 under which the 2nd respondent District Registrar of Societies has declared the office bearers, including respondents 3 and 4, as office bearers of the aforesaid society on various grounds. All the grounds urged in the writ petition need not be traversed in view of the fact that under Clause 7 of the bye-laws of the society the term of office of the office bearers is one year and that period had expired long back.

2. The petitioners have already approached the Civil Court seeking declaratory relief and the Civil Court declined to grant interim order and the same was affirmed by this Court in C.R.P. No. 688/98. Annexure-N is followed by Annexure-P dated 30-6-1999 by which the list of office-bearers have been approved for the year 1999-2002. Hence, petitioners have filed I.A.III seeking amendment of the writ petition in that regard with an additional prayer to quash Annexure-P on the basis of the alleged amendments to the bye-laws.

3. Clause 7 of the bye-laws of the society had been amended substituting 3 years in place of 1 year. The said amendment was passed in the meeting held on 5-7-1997 and the same was approved by the Registrar on 23-6-1999. The

amendment effected was prospective from the date of its approval. Hence, the term of office of the office-bearers elected in the election shall not be for a period of 3 years. Hence, the election of office bearers for a period of three years under Annexure-P is bad in law and the same is liable to be quashed. Therefore, I.A. III is allowed.

4. The submission of Mr. V.S. Kulkarni, learned counsel for the 4th respondent that election of office-bearers for a subsequent term is a separate and fresh cause of action and the petitioners cannot seek quashing of Annexure-P in this writ petition and they have to file another writ petition, is misconceived. The Registrar is not empowered under the Act or the Rules to approve the list of office-bearers of a particular group when there is rivalry in the society. The petitioners cannot be forced to file one more writ petition in view of the subsequent events that took place after filing the writ petition.

5. In view of the refusal to grant interim order by the Civil Court, respondents 3 and 4 must be continuing in office. They cannot continue for 3 years on the assumption that the amended bye-laws would be applicable to them in relation to the term of office. Therefore, it would be proper to direct re-election to the society in accordance with the bye-laws.

6. Accordingly, respondents 3 and 4 are hereby directed to conduct election to the society in accordance with law under the supervision of the second respondent not later than two months from the date of receipt of a copy of this order.

7. Writ Petition is disposed of accordingly.