

(2014) 12 KAR CK 0010

In the Karnataka High Court

Case No : Writ Petition No. 27851 of 2013 (APMC)

Shiva Kumar

APPELLANT

Vs

Karnataka State Agricultural Marketing Board

RESPONDENT

Date of Decision : 09-12-2014

Acts Referred:

Citation : (2015) 1 AKR 510 : (2015) 3 KCCR 2269

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : F.V. Patil, Advocate for the Appellant; K. Vidyavathi, Additional Government Advocate, A.C. Balaraj and C.V. Angadi, Advocate for the Respondent

Judgement

Anand Byrareddy, J.—Heard the learned counsel for the parties.

2. The petition is considered for final disposal given the circumstances of the case.

3. The facts, as stated in the petition, are that, the petitioner is said to be a member of the Mundargi Agricultural Produce Marketing Committee, having been elected as such at the elections to such membership, held on 11.5.2011. The total membership of the Committee is said to be 17 and the term of the Committee is said to be for a period of 5 years. The President of the Committee is elected from amongst the members of the Committee for a term of 20 months. The petitioner is said to have been elected as the President, on 11.5.2011 and the 20 month term had come to an end on 10.1.2013.

Under the Scheme of the Agricultural Produce Marketing Committee (Regulation & Development) Act, 1966 (Hereinafter referred to as the "APMC Act", for brevity), the Karnataka State Agricultural Marketing Board is constituted at the State level. It consists of the following members, namely, the minister of the State in charge of agricultural produce marketing is the ex-officio Chairman of the Board. One person from each revenue district would be a member. Such member is elected from amongst the Chairmen of the respective marketing

Committees in the District. The Secretary to Government, Department of Co-operation, the Secretary to Government, Department of Agriculture or their respective nominees, who are ex-officio members, apart from the Director of Agricultural Marketing, are the other members.

The petitioner, who was elected as the Chairman of the APMC, Mundargi, was also elected as a Member of the Agricultural Marketing Board from the revenue district of Gadag, as per order dated 11.7.2011, duly published in the Karnataka Gazette on 15.7.2011.

4. The petitioner's term of office as the Chairman, APMC, Mundargi came to an end on 10.1.2013. He was however, said to have been re-elected for a further term of 20 months. By virtue of such re-election, the petitioner claims that he is entitled to continue as a Member of the Agricultural Marketing Board. The petitioner seeks to place reliance on the tenor of Sections 104 read with Section 106 of the APMC Act. It is contended that the petitioner qualifies to the membership of the Board by virtue of his being continued as a member of the electorate of Chairmen of the market committees of Gadag District, which is the first requirement to be a member of the Marketing Board.

It is further contended that the term of office of the elected members of the Board, is co-terminus with the term of office of the members of the Market Committee. It is hence contended that by virtue of his re-election, as the Chairman, APMC, Mundargi, the need for an election amongst the Chairmen of the Committees of the Gadag revenue district, to be a member of the Board does not arise, as he was already elected for a term which is co-terminus with his membership of the Committee and more significantly, as long as he also meets the qualification required under Section 104 of the APMC Act.

5. Per contra, the learned counsel for respondents 1 and 2 and the learned Government Pleader would seek to point out that the petitioner ceased to be a member of the Board when his term as the Chairman of the APMC, Mundargi came to a close. The fact that he has been re-elected as the Chairman for a further term of 20 months from 10.1.2013 would only enable him to contest the election along with other Chairmen of the Committees of the Gadag Revenue District, for the membership of the Board. In the absence of such election, his continued membership of the electorate of Chairmen of the Market Committees by itself would not entitle him to claim membership to the Board.

6. By way of reply, the learned counsel for the petitioner would insist that there are several other instances of such membership of members from other districts, to the Board being continued, in identical circumstances, and that it would be arbitrary to deny the petitioner his due.

7. In the light of the rival contentions, we may take stock of the relevant provisions of the APMC Act in order to address the controversy.

Section 101 of the APMC Act provides for composition of the State Marketing

Board. Clause (ii), Sub-section (1) of Section 101 provides that, one person from each revenue district of the State, who shall be a Chairman of a Market Committee in the district, elected in the prescribed manner by an electorate consisting of the Chairmen of all Market Committees in such district.

Section 104 provides that a member so elected, as above, would cease to be a member of the Board - if he ceases to be a member of the electorate of Chairmen of the Market Committees concerned.

Section 105 provides for a by-election - if the seat of any elected member becomes vacant on account of resignation, death or cessation of membership under Section 104.

Section 106 reads as follows:

"106. Term of office of the members of the Board - The term of office of the elected members of the Board shall, save as otherwise provided in this Act, be coterminous with the term of office of the members of the market committee;

Provided that the term of office of the elected members of the Board shall be deemed to have been continued till the term of office of the duly elected members commences]."

(emphasis supplied)

It is significant that the term of office of the elected members of the Board being co-terminus with the term of office of the members of the Market Committee is clearly subject to other provisions of the Act and cannot be read in isolation. A reasonable and rational interpretation of the scheme envisaged under the Act is to draw members to the State Marketing Board, one from each revenue district at an election from an electorate consisting of all elected Chairmen of the Market Committees of the District. Such election is naturally conducted on the election of the Chairmen to all the respective Market Committees of the district. It is possible that such election of the Chairmen of all the Committees may not have been simultaneously concluded for various reasons and hence the election to the membership of the Marketing Board is delayed, as in the present case on hand. Therefore, in terms of the proviso to Section 106, a member already elected, such as the petitioner, would continue to be a member of the Board, till the term of office of a duly elected member commences. It would not, however, be tenable to contend that the term of office as a member of the Board would continue on re-election as the Chairman of the Market Committee, without a re-election to the Marketing Board. The petitioner could at best continue as a member of the Board till the term of office of a duly elected member representing Gadag revenue district, commences.

The writ petition is allowed in part. The petitioner would be entitled to continue in office as a member of the Karnataka State Marketing Board, till the commencement of the term of office of a duly elected member representing Gadag revenue district.