

(1997) 06 KAR CK 0008
In the Karnataka High Court
Case No : Writ Petition No. 4491 of 1997

Sri Sagarnahalli Revanna

APPELLANT

Vs

Govt. of Karnataka

RESPONDENT

Date of Decision : 03-06-1997

Acts Referred:

Karnataka Co-operative Societies Act, 1959 — Section 12 A (4), 121, 28 A

Citation : (1998) ILR (Kar) 2227

Hon'ble Judges : L. Sreenivasa Reddy, J

Bench : Single Bench

Advocate : D.S. Joshi, for the Appellant; K. Nagaraj, HCGP for R1, M.M. Joshi, for R2 and Jayakumar S. Patil, for R3, for the Respondent

Final Decision : Allowed

Judgement

L. Sreenivasa Reddy, J.—Heard counsel on both sides.

2. The petitioner is one of the Directors of the second respondent-Federation. In this writ petition, he has challenged the order of the State Government dated 27-12-1996 (Annexure-A) u/s 121 of the karnataka co-operative societies Act, exempting the election of the president of the second respondent from the operation of Section 28-A(4) of the co-operative societies act (for short "the Act"). No counter has been filed on behalf of the first respondent so far.

3. Sri. Joshi, learned counsel for the petition contended that, Section 121 of the act empowers the State Government to exempt any co-operative society or any class of societies from any of the provisions of this act or may direct that such provisions shall apply to such society or class of societies with such modifications as may be prescribed in the order. But it does not empower the state government from passing partial exemption in respect of certain things only, Section 28A of the Act lays down that the management of a co-operative society vests in the committee and Section 28(4) contemplates that the members of the committee shall, every year, elect from among themselves the officers of the co-

operative society and the election for the office bearers shall be by ballot. u/s 121 of the Act, the state government may stay the election of the members of the committee of the co-operative society. But it has no power to postpone the election of either the president or the vice-president of the society as the case may be. Therefore, in my view the submission of Sri Joshi, learned counsel for the petitioner that the impugned order at Annexure-A is contrary to section 121 of the act is well founded. The contention of Sri Nagaraj, learned HCGP, that u/s 121 of the act the State Government has power to postpone the election of any of the office bearers of the society cannot be accepted.

4. In my view, the impugned order at Annexure-A by which the election of the president of the second respondent has been postponed till 30-11-1997 cannot be sustained and it is liable to be quashed.

5. In the result, the writ petition is allowed. Annexure-A is quashed. In the circumstances of the case, I make no order as to costs.