
(1995) 01 KAR CK 0025
In the Karnataka High Court
Case No : Writ Petition No. 717 of 1995

Vishnu

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 12-01-1995

Acts Referred:

Constitution of India, 1950 — Article 14

Karnataka Co-operative Societies Act, 1959 — Section 29 (1), 29 (2)

Citation : (1995) ILR (Kar) 631 : (1995) 6 KarLJ 95

Hon'ble Judges : Eswara Prasad, J

Bench : Single Bench

Advocate : Patil and Patil, for the Appellant; A.N. Swamy, HCGP, for the Respondent

Final Decision : Dismissed

Judgement

Eswara Prasad, J.—The petitioner was nominated to the Board of Directors of the 2nd respondent Society by the 1st respondent in the year 1991, in exercise of the power u/s 29(1) of the Karnataka Cooperative Societies Act, 1959 (the Act for short). The petitioner was later elected as the President of the Society on 3.5.1994 for the year 94-95. Later, the 1st respondent Government issued a Notification dated 21.12.1994 withdrawing the nominations of Directors made all over the State, by Annexure-C, resulting in the petitioner ceasing to be a nominated member and consequently, as the President of the Board of Directors came to an end. The petitioner questions the Notification dated 21.12.1994 - Annexure-C.

2. The learned Counsel for the petitioner contended that the removal of all the nominated Directors en masse by the 1st respondent is illegal. He further contends that the petitioner, on election as the President of the Board of Directors was entitled to continue for one calender year ending with 2.5.1995 and that he is entitled to hold office during the said period and his membership as a Director of the Board cannot be terminated by the impugned order.

3. The petitioner was appointed as a Director of the Society u/s 29(1) of the Act. The petitioner holds office as a Member of the Committee as a nominated member during the pleasure of the State Government under Sub-section (2) of Section 29. The contention of the learned Counsel for the petitioner is based on *Kumari Shrilekha Vidyarthi and Others Vs. State of U.P. and Others*, , where the Law Officers in the entire State of U.P. were removed at one stroke, where under the Rules, the Law Officers could be removed by the State Government without assigning any reasons. The said Decision is not applicable to the facts of the present case for the simple reason that there was no provision similar to Sub-section (2) of Section 29 in the provisions under which the petitioners therein were appointed. In the case on hand, the petitioner holds office during the pleasure of the State Government.

4. Under similar circumstances in *Om Narain Agarwal and others Vs. Nagar Palika, Shahjahanpur and others*, , the Supreme Court held that there is no question of any violation of principles of Natural Justice in not affording opportunity to the nominated members before their removal nor the removal under the pleasure doctrine contained in the fourth Proviso to Section 9 of the Act puts any stigma on the performance or character of the nominated members.

5. The doctrine of pleasure was considered by the Division Bench of this Court in *Sadanandaiah Vs. State of Karnataka*, while dealing with the provisions of the Karnataka Urban Development Authority Act. A similar provision was made under the Act enabling the appointment of members to the Local Authority, to hold Office during the pleasure of the State Government. Relying on the Decision in *Om Narain Agarwal and Ors. v. Nagar Palika, Shahjahanpur*, the Division Bench held that the cancellation of the appointment of the nominated member in terms of the provisions was not arbitrary or violative of Article 14 of the Constitution.

6. It has therefore to be held that the State Government has the power to cancel the nomination of all members who were appointed u/s 29(1) of the Act, as they hold office during the pleasure of the Government. Once the petitioner ceased to be Director by virtue of the cancellation of his nomination as Director under the impugned order, he cannot hold the office of the President of the Board of Directors. The very basis on which he was elected as a President goes, with his ceasing to be a Director of the Society.

The Writ Petition therefore fails and it is accordingly dismissed.