

B Devaraju vs the State of Karnataka

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Court : Karnataka Orders

Decided On : Feb-28-2025

Judge : K.S. Hemalekha

Appeal No. : WP/3753/2025

Appellant : B Devaraju

Respondent : The State of Karnataka

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28TH DAY OF FEBRUARY, 2025 BEFORE THE HON'BLE MRS JUSTICE K.S. HEMALEKHA WRIT PETITION NO. 3753 OF 2025 (CS-EL/M) BETWEEN: B DEVARAJU S/O. LATE BETTEGOWDA AGED ABOUT 50 YEARS SHRE NO.54/1B MEMBER OF CHAMANAHALLI PRIMARY AGRICULTURE CREDIT CO-OPERATIVE SOCIETY LTD, T NARASIPURA TALUK, MYSURU DISTRICT-571124. PETITIONER (BY SRI. SANDESH T B.,ADVOCATE) AND:

1. THE STATE OF KARNATAKA DEPARTMENT OF CO-OPERATION,
M.S BUILDING,

Digitally signed by

DR. B.R AMBEDKAR VEEDHI, MAHALAKSHMI

COURT OF KARNATAKA

2. THE STATE CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR,
TTMC A BLOCK, K.H.ROAD, SHANTINAGAR, BANGALORE-560027
REPRESENTED BY ITS SECRETARY.

3. THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES
MYSURU DISTRICT-570001.

4. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES, -2-
MYSURU SUB-DIVISION, MYSURU TALUK, MYSURU DISTRICT-
570001.

5. CHAMANAHALLI PRIMARY AGRICULTURE

CREDIT CO-OPERATIVE SOCIETY LTD, T NARASIPURA TALUK,
MYSURU DISTRICT-571124, REPRESENTED BY ITS CEO SOCIETY
REGISTERED UNDER THE KARNATAKA CO-OPERATIVE SOCIETIES
ACT-1959)

6. RETURNING OFFICER CHAMANAHALLI PRIMARY AGRICULTURE
CREDIT CO-OPERATIVE SOCIETY LTD, T NARASIPURA TALUK,
MYSURU DISTRICT-571124 REPRESENTED BY ITS CEO

(SOCIETY REGISTERED UNDER THE KARNATAKA CO-OPERATIVE
SOCIETIES ACT-1959) RESPONDENTS (BY SRI. YOGESH D NAIK,
AGA FOR R1, R3, R4 AND R6, SRI.T L KIRAN KUMAR, ADVOCATE
FOR R2, SRI. S B TOTAD, ADVOCATE FOR R5) THIS W.P. IS FILED
UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA
PRAYING TO DIRECT THE R-2 TO 6 TO INCLUDE THE NAME OF
THE PETITIONER IN THE ELIGIBLE VOTERS LIST AND PERMIT THE

PETITIONER CONTEST AND COST THEIR VOTES IN THE ELECTIONS TO THE R-5 WHICH IS SCHEDULED TO BE

HELD ON 19.02.2025 VIDE ANNEX-A.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER

WAS MADE THEREIN AS UNDER: CORAM: HON'BLE MRS JUSTICE K.S. HEMALEKHA -3-

ORAL ORDER

The petitioner is seeking for the following prayers:- " Wherefore, the petitioner most humbly prays that this Honble court may be pleased to issue,

i. Issue a writ of mandamus directing the respondent no.2 to 6 to include the name of the petitioner in the eligible voters list and permit the petitioner to contest and cost their votes in the elections to the respondent no.5 which is scheduled to be held on 19.02.2025 vide Annexure-A in the interest of justice and equity.

ii. Such other direction or order writ as may deem fit to this Honble Court may kindly be issued.

2. This Court by way of an interim arrangement on 07.02.2025 permitted the petitioner to cast their votes in the ensuing election scheduled on 19.02.2025 subject to final outcome of this petition.

3. Heard Sri Sandesh T.B., learned counsel for the

petitioners, Sri Yogesh D. Naik, learned AGA for respondent Nos.1, 3, 4 and 6, Sri T.L. Kiran Kumar, -4- learned counsel for respondent No.2 and Sri S.B. Totad, learned counsel for respondent No.5.

4. Counsel for the petitioners submits that the election has been held as scheduled on 19.02.2025 and the petitioners have cast their votes.

5. Reiterating various contentions raised in the

writ petition, it is mainly urged that no individual notice is issued to the petitioners while the names of the petitioners are excluded in the final voters list and the respondents have acted against mandate requirement of Rule 13 (D) (2-A) of the Karnataka Co-Operative Societies Rules, 1960 (the Rules for short). It is urged that the petitioners should be treated as eligible voters and their votes to be counted as valid votes.

6. Learned counsel for respondent No.5-Society

fairly submits that the society has not followed the mandatory requirement of the aforementioned rules and -5- cast votes of the petitioners to be included while counting and the results to be announced.

7. It is brought to the notice of this Court that

under identical circumstances, the Co-Ordinate Bench of this Court in the case of H.S. Raju and others Vs. State of Karnataka and others¹ (H.S. Raju) has permitted the votes to be counted and election results to be announced, keeping open all contentions to be adjudicated in the appropriate forum under Section 70

(2) (c) of the Karnataka Co-Operative Societies Act, 1959

(the Act for short). Whether the petitioners would incur any disqualification to vote or not is a question of fact to be decided by the appropriate authority under Section 70

(2) (c) of the Act and hence, the following:

ORDER

i. Writ petition is disposed of. ii. The Returning Officer to count the votes, including the votes cast by petitioners and 2022 (4) AKR 775 -6- announce the results of the election, which was scheduled on 19.02.2025. iii. Aggrieved party is entitled to raise a

dispute under Section 70 (2) (c) of the Act, if raised a dispute under the said provision, questioning the eligibility of the petitioners to vote in the election to the Board of the respondent - society, the said dispute shall be decided without being influenced by the interim order granted by this Court and it is made clear that granting of an interim

order in favour of the petitioner would not

give any finding on the eligibility of the petitioners to vote in the election of the Board of respondent - society. iv. The eligibility of the petitioners to vote in the election is kept open to be decided in a dispute, if any, raised in this regard. v. If any such dispute relating to the eligibility of the petitioners to vote in the election to the Board of the respondent-society is raised, the effect of holding the petitioners ineligible to vote and excluding such votes, on the final outcome of the election results -7- shall also be taken into account before passing the final orders. vi. The vote cast by the petitioners shall be kept in a separate sealed box after counting. vii. This Court has not expressed any merits or demerits of the ineligibility of the petitioners. Sd/- JUSTICE K.S. HEMALEKHA MBM List No.: 2 SI No.: 6

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