

Umavathi vs the State of Karnataka

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Court : Karnataka Orders

Decided On : Feb-01-2025

Judge : K.S. Hemalekha

Appeal No. : WP/36175/2024

Appellant : Umavathi

Respondent : The State of Karnataka

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF FEBRUARY, 2025 BEFORE THE
HON'BLE MRS JUSTICE K.S. HEMALEKHA WRIT PETITION NO..
36175 OF 2024 (CS-EL/M) BETWEEN:

1. UMAVATHI W/O SANTHAPPA GOWDA AGED ABOUT 48 YEARS
MEMBER NO. 3557
2. ADAM S/O UNJNI BEARY AGED ABOUT 58 YEARS MEMBER NO.
3442
3. SAFIYA

W/O IBRAHIM AGED ABOUT 41 YEARS MEMBER NO. 3360. Digitally signed by MAHALAKSHMI B M Location: HIGH 4. NANYAPPPA GOWDA COURT OF KARNATAKA S/O RUKAMAYYA GOWDA AGED ABOUT 61 YEARS MEMBER NO. 3332

5. RADHA W/O RUKMAYA POOJARY AGED ABOUT 61 YEARS MEMBER NO. 3293

6. RAGHU GOWDA S/O VASAPPA GOWDA -2- AGED ABOUT 61 YEARS MEMBER NO. 3446

7. VASANTHA GOWDA S/O CHINNAYYA GOWDA AGED ABOUT 65 YEARS MEMBER NO. 3494

8. REVATHI W/O RAMANNA GOWDA AGED ABOUT 66 YEARS MEMBER NO. 3513

9. UDAYA S/OJARAPAP KUMAR AGED ABOUT 33 YEARS MEMBER NO. 3531

10. KAMALA D/O AMBODI AGED ABOUT 53 YEARS MEMBER NO. 3534

11. VINO.DA D/O AMBODI AGED ABOUT 48 YEARS MEMBER NO. 3535

12. SUNDARI W/O SHNEEPPA GOWDA AGED ABOUT 54 YEARS MEMBER NO. 3551

13. SHASHIKALA W/O DEJAPPA GOWDA AGED ABOUT 50 YEARS -3- MEMBER NO. 3554

14. MEGHANA W/O PRASHANTH AGED ABOUT 32 YEARS MEMBER NO. 3559

15. SHARADA W/O SRIDHAR POOJARY AGED ABOUT 51 YEARS MEMBER NO. 3617

16. SUBRAYA HOLLA S/O NARAYANA HOLL AGED ABOUT 60 YEARS MEMBER NO. 3618

17. AVAMMA W/O ABDUL JALEEL AGED ABOUT 65 YEARS MEMBER NO. 4413
18. SIDDIK S/O MOHAMMED AGED ABOUT 42YEARS MEMBER NO. 3731
19. MALATHI W/O SANJEEVA POOJARY AGED ABOUT 35 YEARS D K DISTRICT 574236 MEMBER NO. 4486
20. JUNAID S/O ABOOBAKK AR AGED ABOUT 38 YEARS -4- MEMBER NO. 3734
21. JUBAIDA D/O ABOOBKKAR AGED ABOUT 49 YEARS MEMBER NO. 3735
22. SUNDARI W/O RAMANNA GOWDA AGED ABOUT 51YEARS MEMBER NO. 3762
23. AZHARUDDIN S/O IBRAHIM AGED ABOUT 42 YEARS MEMBER NO. 4078
24. LOKAYYA GOWDA S/O RUKMAYYA GOWDA AGED ABOUT 39 YEARS MEMBER NO. 3783
25. YAKUB BEARY S/O ISUBU AGED ABOUT 61 YEARS MEMBER NO. 3793
26. SUMALATHA P W/O VENUGOPALA AGED ABOUT 62 YEARS MEMBER NO. 3797
27. GOAPALAKRISHNA BHAT S/O NARAYANA VWHAT AGED ABOUT 48 YEARS MEMBER NO. 3838 -5-
28. SADASHIVA S S/O MATRA MUGERA AGED ABOUT 45 YEARS MEMBER NO. 3808
29. VARIJA W/O DEJAPPA POOJARY AGED ABOUT 65 YEARS MEMBER NO. 3865
30. VASUDEVA GOWDA S/O LINGAPPA GOWDA AGED ABOUT 46 YEARS MEMBER NO. 935

31. ANANDA S/O VEERAPPA GOWDA AGED ABOUT 41 YEARS MEMBER NO. 2544
32. JULEIKA W/O HYDER AGED ABOUT 38 YEARS MEMBER NO. 2601
33. PRAVEEN S/O ANNU SADHANA AGED ABOUT 41 YEARS MEMBER NO. 3771
34. SAROJINI W/O UMESH GOWDA AGED ABOUT 31 YEARS MEMBER NO. 2768 -6-
35. RAMA BELCHADA S/O PARKU BELCHADA AGED ABOUT 61 YEARS MEMBER NO. 2696
36. NEBISA W/O MUSAN AGED ABOUT 51 YEARS MEMBER NO. 2746
37. USMAN S/O PUTTHU BEARY AGED ABOUT 50 YEARS MEMBER NO. 2775
38. ELYANNA POOJARY S/O DHOOMA POOJARY AGED ABOUT 66 YEARS MEMBER NO. 2793
39. HONNAMMA W/O CHARMBA AGED ABOUT 38 YEARS MEMBER NO. 2867
40. PRANESH B S/O PODIYA B AGED ABOUT 37 YEARS MEMBER NO. 2989
41. DAMODARA GOWDA S/O CHANDAPPA GOWDA AGED ABOUT 47 YEARS MEMBER NO. 3044 -7-
42. ANANDA S/O AMMU AGED ABOUT 34 YEARS MEMBER NO. 3277
43. RAGHUNANDAN S/O AMMU AGED ABOUT 29 YEARS MEMBER NO. 3283
44. SARAMMA W/O AHAMAD KUNJNI AGED ABOUT 50 YEARS MEMBER NO. 3405
45. PREMA A W/O VASANTHA GOWDA AGED ABOUT 29 YEARS MEMBER NO. 3445
46. SUREKHA W/O PRAVEEN M AGED ABOUT 41 YEARS MEMBER NO. 3454

47. DEVAKI W/O SHIVAPPA GOWDA AGED ABOUT 36 YEARS MEMBER NO. 3604
48. HARIPRASAD S/O GOPLAGOWDA AGEDA ABOUT 34 YEARS MEMBER NO. 3915 -8-
49. LEELAVATHI W/O GOPALA GOWDA AGED ABOUT 61 YEARS MEMBER NO. 3938
50. DEVAKI W/O KUSHALAPPA GOWDA AGED ABOUT 36 YEARS MEMBER NO. 3945
51. DEVAKI W/O RAMA BELCHADA AGED ABOUT 46 YEARS MEMBER NO. 3955
52. CHIDANANDA RAO S/O RAGAHAVENDRAYYA AGED ABOUT 77 YEARS MEMBER NO. 226
53. RUKMAYYA GOWDA S/O BORA GOWDA AGED ABOUT 65 YEARS MEMBER NO. 645
54. ACHUTA SACHARI S/O DODDAYYA POOJARY AGED ABOUT 68 YEARS MEMBER NO. 632
55. ABDUL KHADER M S/O ISUBU BEARY AGED ABOUT 48 YEARS MEMBER NO. 2276 -9-
56. YAQUB BEARY S/O IDINA BEARY AGED ABOUT 51 YEARS MEMBER NO. 2334
57. ABDUL RAHIMAN S/O ABOOBAKKAR AGED ABOUT 49 YEARS MEMBER NO. 2335
58. UDAYA S S/O SHEENAPPA GOWDA AGED ABOUT 35 YEARS MEMBER NO. 2344
59. MARIAMMA W/O ABDUL KHADER AGED ABOUT 44 YEARS MEMBER NO. 2359

60. YATHEESHA S/O RUKKA GOWDA AGED ABOUT 38 YEARS MEMBER NO. 2362
61. KANTHAPPA GOWDA S/O ANNI GOWDA AGED ABOUT 61 YEARS MEMBER NO. 2386
62. SULEIMAN BEARY S/O KUNJNIMONU BEARY AGED ABOUT 65 YEARS MEMBER NO. 2416 - 10 -
63. NEELAYYA GOWDA S/O KARIYA GOWDA AGED ABOUT 49 YEARS MEMBER NO. 2421
64. YADHAVA POOJARY S/O BABU POOJARY AGED ABOUT 44 YEARS MEMBER NO. 2424
65. VASAPPA GOWDA S/O POOVAPPA GOWDA AGED ABOUT 52YEARS MEMBER NO. 2454
66. RAMESH K S/O DEJAPPA GOWDA AGED ABOUT 51 YEARS MEMBER NO. 2477
67. SURESH S/O POOVANI GOWDA AGED ABOUT 34 YEARS MEMBER NO. 2534
68. ANNI GOWDA S/O RUKMAYYA GOWDA AGED ABOUT 61 YEARS MEMBER NO. 2537
69. MONAMMA W/O ANNI GOWDA AGED ABOUT 60 YEARS MEMBER NO. 2538 - 11 -
70. POOVAPPA GOWDA S/O PODIYA GOWDA AGED ABOUT 54 YEARS MEMBER NO. 2540
71. MEENAKSHI W/O SANTHAPPA GOWDA AGED ABOUT 62 YEARS MEMBER NO. 2543
72. MOHAMMAD S/O GULAM BEARY AGED ABOUT 52 YEARS MEMBER NO. 1069

73. YUSUF S/O RAZAKH BEARY AGED ABOUT 61 YEARS MEMBER NO. 1079
74. SULEIMAN S/O HSANABBA AGEDA BOUT 61 YEARS MEMBER NO. 1561
75. ADAM K S/O YUSUF AGED ABOUT 39 YEARS MEMBER NO. 1654
76. JURABI W/O ABDUL KHADER AGED ABOUT 58 YEARS MEMBER NO. 1760 - 12 -
77. KRISHNA N NEERADI S/O SHAMBU AGED ABOUT 54 YEARS MEMBER NO. 2207
78. ABDUL RAZAK S/O ABDUL RAHIMAN AGED ABOUT 39 YEARS MEMBER NO. 2232
79. SREEPATHI BHAT S/O KRISHNA RAO S AGED ABOUT 55 YEARS MEMBER NO. 1879
80. VIJAYA W/O KANTHAPPA SIRIYAN AGED ABOUT 65 YEARS MEMBER NO. 1880
81. KASIM N P S/O IBRAYI YANDCE MOOSAN AGED ABOUT 42 YEARS MEMBER NO. 1929
82. ADAM P S/O MAHAMMAD AGE ABOUT 42 YEARS MEMBER NO. 1932
83. MAHALAKSHMI W/O SUBRAYI HOLLA AGED ABOUT 53 YEARS MEMBER NO. 1936 - 13 -
84. SHIVAPPA GOWDA S/OUMANA GOWDA AGED ABOUT 74YEARS MEMBER NO. 1941
85. ABDUL RAZAAK S/O IBRAHIM BYARI AGED ABOUT 53 YEARS MEMBER NO. 1973
86. ABDUL KHADER S/O MAHAMMED BYARI AGED ABOUT 52YEARS MEMBER NO. 1981

87. MADHAVA S/O PORNKA AGED ABOUT 38 YEARS MEMBER NO. 1985
88. KAALI W/O AMBODI AGED ABOUT 53 YEARS MEMBER NO. 1990
89. BABY W/O GIRIYAPPA AGED ABOUT 51 YEARS MEMBER NO. 1991
90. ANANDA S/O AMBODI AGED ABOUT 45 YEARS MEMBER NO. 1992 - 14 -
91. CHINNAMMA W/O KITTU AGED ABOUT 53 YEARS MEMBER NO. 1993
92. SOORYA NARAYANA S/O RAMADASA RAO AGED ABOUT 58 YEARS MEMBER NO. 1997
93. SHIVANNA GOWDA N S/O LAKSMANA GOWDA AGED ABOUT 42 YEARS MEMBER NO. 2044
94. KRISHNAPPA GOWDA S/O VASU GOWDA AGED ABOUT 54 YEARS MEMBER NO. 2048
95. VASAPPA GOWDA S/O POOVANI GOWDA AGED ABOUT 64 YEARS MEMBER NO. 2096
96. UMESHA, S/O SOORAPPA POOJARY AGED ABOUT 38 YEARS MEMBER NO. 2134
97. KESHAHA S/O PODIYA AGED ABOUT 58 YEARS MEMBER NO. 2201 - 15 -
98. KHATHIJAMMA W/O YAKOOB BYARI AGED ABOUT 62 YEARS MEMBER NO. 2216
99. MAHAMMAD SHARIFF S/O ABDUL BYARI AGED ABOUT 48 YEARS MEMBER NO. 2221
100. MAHAMMED ASHRAF S/O UMMARE BYARI AGED ABOUT 35 YEARS MEMBER NO. 2256
101. ABBAS S/O ABBU BYARI AGED ABOUT 39 YEARS MEMBER NO. 3458

102. MOHAMMED ANSAF S/OLATHEEF AGED ABOUT 41YEARS MEMBER NO. 4497
103. AREES J S/O ABBAS AGED ABOUT 43 YEARS MEMBER NO. 4680
104. CHANDRAHASA S/O JANARDHANA NAIKA AGED ABOUT 46 YEARS MEMBER NO. 3560 - 16 -
105. BALAKKA YANE BHAYVA W/O RUKMAYYA NAIKA AGED ABOUT 49 YEARS MEMBER NO. 3567
106. ABUBAKKAR SIDIKA K S/O MAHAMMAD AGED ABOUT 38 YEARS MEMBER NO. 4421
107. USMAN BYARI S/O RAMLA BYARI AGED ABOUT 41 YEARS MEMBER NO. 3641
108. JAMEELA S/O USMAN BYARI AGED ABOUT 42 YEARS MEMBER NO. 3642
109. LEELAMMA W/O SULEMAN AGED ABOUT 53 YEARS MEMBER NO. 3756
110. SHUBHALATHA W/O PRAVEENA SADHANA AGED ABOUT 30 YEARS MEMBER NO. 4155
111. ASHRAF S/O HAMEED BYARI AGED ABOUT 32YEARS MEMBER NO. 3806 - 17 -
112. PRADEEP S/O CHINNOJI RAO AGED ABOUT 42 YEARS MEMBER NO. 3859
113. ABDUL HAKEEM S/O MAHAMMAD K AGED ABOUT 43 YEARS MEMBER NO. 4216
114. SAFIYA W/O MAHAMMAD AGED ABOUT 38 YEARS MEMBER NO. 3868
115. IBRAHIM S/O ABDUL KHADER AGED ABOUT 43 YEARS MEMBER NO. 4244

116. ASMA W/O LATHEEF AGED ABOUT 38 YEARS MEMBER NO. 4214

117. RAJEEVA N S/O HARIDASA ACHARYA AGED ABOUT 65 YEARS
MEMBER NO. 4050

118. KASIM P S/O DAAVOOD AGED ABOUT 44 YEARS MEMBER NO. 4223 -
18 -

119. JAMALUDDIN S/O ABDUL RAHIMAN AGED ABOUT 39 YEARS MEMBER
NO. 3970

120. TOUSIF S/O ABBAS AGED ABOUT 38 YEARS MEMBER NO. 4059

121. GANGAIAH GOWDA S/O ANTHAPPA GOWDA AGED ABOUT 56 YEARS
MEMBER NO. 2575

122. IBRAHIM S/OP CHERIYAMONU BYARI AGED ABOUT 50 YEARS
MEMBER NO. 1956

123. HASEENA W/O KHASIM N AGED BOUT 30 YEARS MEMBER NO. 2618

124. ABUBAKKAR B S/O PUTTMONU BYARI AGED ABOUT 50 YEARS
MEMBER NO. 1895

ALL ARE MEMBERS OF PADMUNJA PRIMARY AGRICULTURAL CREDIT CO-
OPERATIVE SOCIETY LTD., A SOCIETY REGISTERED UNDER KARNATAKA
CO-OPERATIVE SOCIETIES ACT 1959, PADMUNJA, BELTHANGADY TALUK, -
19 - D.K. DISTRICT - 574 236. PETITIONERS (BY SRI. RAKSHITH KUMAR,
ADVOCATE) AND:

1. THE STATE OF KARNATAKA, DEPARTMENT OF CO-OPERATION MS
BUILDING, BANGALORE - 560 001, REPRESENTED BY ITS PRINCIPAL
SECRETARY.

2. THE STATE OF CO-OPERATIVE ELECTION AUTHORITY, 3RD FLOOR,
TTMC A BLOCK, K.H. ROAD, SHANTHINAGAR BANGALORE - 560 027,
REPRESENTED BY ITS SECRETARY.

3. PADMUNJA PRIMARY AGRICULTURAL CREDIT

CO-OPERATIVE SOCIETY LTD., A SOCIETY REGISTERED UNDER KARNATAKA CO-OPERATIVE SOCIETIES ACT 1959, PADMUNJA, BELATHANGADY TALUK, D.K. DISTRICT - 574 236 REPRESENTED BY ITS CEO.

4. THE RETURNING OFFICER PADMUNJA PRIMARY AGRICULTURAL CREDIT CO-OPERATIVE SOCIETY LTD., PADMUNJA, BELTHANGADY TALUK, D.K. DISTRICT - 574 236. RESPONDENTS

(BY SRI. YOGESH D. NAIK, AGA FOR R1 AND R4; SRI. T.L. KIRAN KUMAR, ADVOCATE FOR R2; SRI. DEEPAK S. SHETTY, ADVOCATE FOR R3) - 20 - THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECTING THE RESPONDENTS TO INCLUDE THE NAMES OF THESE PETITIONERS IN THE FINAL ELIGIBLE VOTERS LIST AND PERMIT THE PETITIONERS TO CAST THEIR VOTES IN THE UPCOMING ELECTIONS OF THE RESPONDENT NO. 3 SOCIETY WHICH IS SCHEDULE TO BE HELD ON 03.01.2025 AND ETC., THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER: CORAM: HON'BLE MRS JUSTICE K.S. HEMALEKHA

ORAL ORDER

Petitioners are seeking to direct respondents to include the names of petitioners in the eligible voters list and permit the petitioners to cast their votes in the election of respondent No.3-Society, which was scheduled to be held on 03.01.2025.

2. This Court, by way of interim arrangement on

31.12.2024, permitted the petitioners to cast their votes in the ensuing elections scheduled to be held on 03.01.2025 - 21 - to the Board of Directors of respondent No.3-Society subject to the final outcome of this writ petition.

3. The challenge in this writ petition is on the premise that notice under Rule 13 of the Karnataka Co- Operative Societies Rules, 1960 (the KCS Rules, 1960 for

short) is not issued.

4. Rule 13-D of the KCS Rules, 1960 reads as under:

13-D. Preparation of electoral rolls and calendar of events.-(1) Election Officer shall, after due verification, send a consolidated list of all co-operative societies in the district where elections are due at least 120 days before the date of expiry of the term of office of the boards to the Co-operative Election Authority indicating therein the following particulars.-

(a) the name and address of the society;

(b) number of elected directors of the board;

(c) the date of expiry of the term of office of the board;

(d) the proposed places where the elections are to be held or other particulars as required by the Co-operative Election Authority. - 22 -

(2) The Co-operative Election Authority

shall, on receipt of such reports from the Election Officer, containing the list of cooperative societies where elections are due, publish the calendar of events for the preparation of electoral rolls and the conduct of elections of the boards of the cooperative societies indicating the name and address of each society.

(2-A) The election officer shall take steps for publication of voter list who are not eligible to vote in the following manner, namely.-

(i) For publication of draft ineligible electoral list,

the chief executive of every cooperative Society shall prepare notice in respect of members not attending three out of the last five annual general body, meetings and members not utilising such minimum services or facilities in a co-operative year as specified in the bye-laws for three consecutive co- operative years.

(ii) The chief executive of every co-operative

society shall send above prepared notice to all ineligible members, fifteen days prior to six months to the date of election of the board by registered post and an opportunity shall be given to such member to file their objections, - 23 - if any within fifteen days from the date of notice.

(iii) The chief executive of every co-operative

society shall submit the list of ineligible voters to the election officer along with their objections and also produce the records pertaining to absence from general body meeting with attendance and services utilised by members. He has to produce the records for having sent the notice along with acknowledgement to the election officer within thirty days from the date of notice as specified by the election officer.

(iv) The chief executive of every cooperative

society shall state in his notice that the ineligible voter can appear before the election officer between thirty days to sixty days from the date of notice to get the remedy. v) The election officer has to hear and dispose the objections filed by the ineligible voters within sixty days from the days of submission of objections from such voters.

(vi) The final list of ineligible voters shall be published on or before fifteen clear days prior to the date of election. - 24 -

(3) The Election Officer shall take steps for publication of voters list in the following manner, namely.-

(a) for publication of draft eligible list, a list of defaulters, a list of members whose repayment falls due, before the election date clear fifty days;

(b) for calling objections, if any, calling upon the defaulter members to repay the amounts due to the co-operative societies on or before thirty clear days prior to the date of election;

(c) the scrutiny and verification of the voters list after payment by defaulters etc., clear twenty days before the date of election;

(d) for publication of final eligible voters list before fifteen clear days prior to the date of election.

(4) It shall be the duty of every society to furnish correct information required by the Election Officer to enable him to approve the electoral rolls as directed by the Co-operative Election Authority.

(5) The chief executive of every cooperative society shall prepare (i) a draft list of the

eligible members or representatives and delegates with right to vote, (ii) a list of members whose repayments will fall due before the date fixed for publication of final electoral roll, (iii) a list of defaulters, (iv) a list of other members or - 25 - representatives and delegates who are not eligible to vote at a general election indicating the reasons for ineligibility memberwise on the basis of entries in the updated membership register specifying,-

(a) the name of the member or representative, the admission number, the name of the parent or husband and the address of such member or representative in the case of an individual member;

(b) the admission number, the name of the society, the name of the delegate proposed to represent the society in the case of a member society,

and submit the said lists to the Election Officer along with the related books, records and documents and any other information as the Election Officer may require, at least sixty days before the date of election.

(6) The Co-operative Election Authority shall call upon the Chief Executive of the co-operative

society to obtain from the member society, the name of an authorised member of the board of such society as a delegate, together with the resolution of the board of the said society and the specimen signature along with the photograph of - 26 -

the delegate duly attested and bearing the seal of the society and furnish all such information under sub-rule (5).

(7) The final electoral roll shall consist of the following,-

(a) all the individual members with right to vote in respect of a primary co-operative society; or

(b) all the individual members and the delegates of the members societies with right to vote in respect of a secondary co-operative society; or

(c) all the delegates of the member societies with right to vote in respect of a federal and an apex society.

(8) The copy of such electoral roll in respect of each society shall be kept open for inspection in the office of such society as also in the office of the Election Officer.

(9) The election calendar of events for general election of directors of the board shall provide for.-

(a) date of notification inviting nomination;

(b) last date for receipt of nomination;

(c) date and time for scrutiny of nomination;

(d) date and time for publication of list of validly nominated candidates; - 27 -

(e) date and time for withdrawal of nomination papers;

(f) Date and time for publication list of contesting candidates;

(g) Date and time for allotment of symbols and publication of contesting candidates with symbols;

(h) Date and time of poll;

(i) Date and time of counting and declaration of results.

5. The case of the petitioners is that the

petitioners have paid all membership/share holders due to respondent No.3-Society and attended all the annual general body meetings whenever they have received notice from respondent No.3-Society, in spite of which respondent No.3-Society has dropped the petitioners from the eligible voters list and the provisions of Rule 13-D of KCS Rules, 1960 is overlooked by respondent No.3- Society.

6. The Co-Ordinate Bench of this Court in the case

of Sri. B Ganganna and others Vs. The State of - 28 - Karnataka, Department of Co Operation and others¹ (B Ganganna) had given deliberate consideration to the provisions of Rule 13-D of the KCS Rules, 1960 and adjudication of dispute under Section 70 of the Karnataka Co-Operative Societies Act, 1959 (KCS Act, 1959 for short). The Co-Ordinate Bench of this Court framed the following points for consideration at paragraph No.9, which reads as under: 9. In the light of the contentions raised, the following questions arise for consideration;

(a) Whether a writ petition under Article 226

of the Constitution of India is maintainable (before the publication of the calendar of events under Rule 14) to redo the voters list for violation of Rule 13- D(2-A) of the Rules, 1960, in preparing the eligible and ineligible voters list?

(b) Whether the authority acting under Section 70(2)(c) of the Act, 1959 can decide the validity of the electoral roll vis--vis Rule 13-D(2-A) of Rules, 1960?

(c) Whether the judgments of co-ordinate

Bench of this Court in Mohammad Beary and H.S. Raju supra are per incurium and contrary to the law ILR 2024 KAR 1901 - 29 - in Election Commission of India through Secretary supra. (Emphasis supplied)

7. The Co-Ordinate Bench after giving deliberate consideration to various judgments has held at paragraph Nos.50 and 51 as under: 50. For the reasons recorded, this Court concludes as under:

(a) The preparation of electoral roll under Rule,

13-D(2-A) of the Karnataka Co-Operative Rules 1960 is an integral part of the election process in the context of a question whether the writ petition is maintainable when the challenge is laid to the procedure initiated for preparing electoral roll.

(b) In a dispute under Section 70(2)(c) of the

Karnataka Co-operative Societies Act, 1959, the Authority under Section 70 can decide the question on the validity of electoral roll prepared under the Rules, 1960 and its impact on the election.

(c) The judgments in MOHAMMAD BEARY and H.S. RAJU are not per incurium

(d) The writ petition under Article 226 of Constitution of India to challenge the electoral roll on the ground of non compliance of Rule - 30 - 13-D(2-A) of Rules, may lie in exceptional cases.

51. Based on the conclusions arrived at in

the facts and circumstances of the case, this Court is of the view that no exceptional case is made out in this petition to exercise Article 226 jurisdiction. This Court has not expressed any opinion on the eligible and ineligible voters list prepared during the pendency of the petition. Hence, the following:

ORDER

Writ petition is disposed of on the following terms:

(i) The returning officer shall count the votes cast in the election held on 21.01.2024, to the Board of the 6th respondent bank, and shall announce the results.

(ii) The liberty is reserved to the petitioners or

any aggrieved person to raise objections to the validity of the electoral roll in an election petition under Section 70(2)(c) of the Karnataka Co-operative Societies Act, 1959.

(iii) If such a dispute is raised, the Authority under

Section 70 of the Karnataka Co-operative Societies Act, 1959, shall examine all questions including the question relating to validity of the eligible and ineligible voters list - 31 - and impact on the election to the Board of the 6th respondent - Bank.

(iv) Nothing is expressed on the merits of the

eligible and ineligible voters' list published during the pendency of the petition and said question kept open to be decided in the dispute under Section 70 of the Karnataka Co-operative Societies Act, 1959, if raised.

8. Section 70 of the KCS Act, 1959 reads as under:

70. Disputes which may be referred to Registrar for decision.-(1) Notwithstanding anything contained in any law for the time being in force, if any dispute touching the constitution, management, or the business of a co-operative society arises.-

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its board or any officer, agent or employee of the society, or

(c) between the society or its board and any past board, any officer, agent or employee, or any - 32 -

past officer, past agent or past employee or the nominee, heirs, or legal representatives of any deceased officer, deceased agent, or deceased employee of the society, or

(d) between the society and any other co- operative society, or a credit agency. such dispute shall be referred to the Registrar for decision and no civil or Labour or Revenue Court or Industrial Tribunal shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.

(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, namely.-

(a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;

(b) a claim by a surety against the principal

debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor, as a result of the default of the principal - 33 - debtor whether such debt or demand is admitted or not;

(c) any dispute arising in connection with the election of a President, Vice-president or any office-bearer or Member of board of the society.

(d) any dispute between a co-operative society

and its employees or past employees or heirs or legal representatives of a deceased employee, including a dispute regarding the terms of employment, working conditions and disciplinary action taken by a co-operative society notwithstanding anything contrary contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947);

(e) a claim by a co-operative society for any

deficiency caused in the assets of the co- operative society by a member, past member, deceased member or deceased officer, past agent or deceased agent or by any servant, past servant or deceased servant or by its board, past or present whether such loss be admitted or not.

(3) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a co-operative society, the decision - 34 - thereon of the Registrar shall be final and shall not be called in question in any court.

(4) xxxxx

(5) x x x x x

9. The plain reading of Section 70 makes it clear

that an extensive and exhaustive mechanism is provided under the aforesaid Section and the authority under Section 70 can decide the question on the validity of electoral roll prepared under the Rules, 1960 and its impact on the elections, whether the petitioners are the eligible voters and have paid membership dues, or annual general body meetings are attended or availed the minimum services are all questions of fact, which have to be decided under Section 70 of the KCS Act, 1959 and the writ petition under Article 226 of the Constitution of India to challenge the electoral roll, the petitioners have not made out any exceptional case in this petition to be entertained and the decision of the Co-Ordinate Bench of this Court in the case of B. Ganganna as stated supra is squarely applicable to the present facts and the present - 35 - petition needs to be disposed of in similar terms and hence, the following:

ORDER

i. The Returning Officer shall count the votes cast in the elections held on 03.01.2025 to the Board of Directors of respondent No.3-Society and shall announce the results. ii. Liberty is reserved to the petitioners or any aggrieved party to raise objections to the validity of the electoral by filing a Election Petition under Section 70(2) of the KCS Act, 1959. iii. If any dispute is raised under the provisions of KCS Act, 1959 the authority under Section 70 of the KCS Act, 1959 shall examine all questions including the questions relating to the validity of the eligible and ineligible voters list and impact of the election to the Board of respondent No.3- Society. iv. All contentions of the parties are kept open. - 36 - v.

This Court has not expressed merits and demerits on eligibility or ineligibility of the voters list. vi. With the said observations, the writ petition stands disposed of. Sd/- JUSTICE K.S. HEMALEKHA TIN List NO.: 1 SI NO.: 40 CT: BHK

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