

M. Lingappa Vs. Joint Registrar of Industrial Co-operatives Bangalore and ors.

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Court : Karnataka

Decided On : Oct-11-1966

Reported in : [1967]37CompCas392(Kar); (1967)1MysLJ109

Judge : A.R. Somnath Iyer and ;Ahmed Ali Khan, JJ.

Appellant : M. Lingappa

Respondent : Joint Registrar of Industrial Co-operatives Bangalore and ors.

Advocate for Def. : E.S. Venkataramaiah, Adv.

Advocate for Pet/Ap. : T.S. Ramachandra, Adv.

Judgement :

Somnath Iyer, J.

1. We are concerned in this writ petition with the validity of the constitution of the board of management for the administration of the Shim go District Industrial Co-operative Bank Ltd. Which we shall refer to as the bank, by the Joint Director of Industries and Commerce and Ex-Officio Joint Registrar of Industrial Co-operatives, by an order made by hi on May 18,1966. Under bye-law No. 22 of the bank, the first board of management was constituted by the Joint Registrar, on

September 25, 1964. The board was composed of fifteen persons amongst whom the Assistant Director of Industries and Commerce, Shim go, were two. There were seven presidents of various industrial co-operative Societies. There were four others who were occupying other offices. Bye-law No. 22 which began to operate when the bank was registered under section 7 reads: 'Nor with standing anything contained in the foregoing bye-law, the first board of Directors including the President shall be nominated by the Joint Registrar and shall hold office for a period not exceeding three years. The period may, at the discretion of the Joint Registrar, be extended for a further period not exceeding two years.'

2. It is not disputed that this bye-law was properly made and that the joint Registrar has the power to nominate the first board of director which is also called the board of management. Under the bye-law, the Joint Registrar was invested with the power to specify the maximum period of three years as the period during which the board nominated by him shall hold office. He was again invested with the power to extend the terms of the board for a further period not exceeding two years.

3. But when the first board of management was constituted by the Joint Registrar on September 25,1964, it was announced by his order that that board shall function' for a period of one year r until further order which ever is earlier.' This was, in our opinion, a very awkward way of fixing the term of the first board of management . The Joint Registrar should have made up his mind as to what the term of office of the first board of management should be in the first instance, instead of leaving that matter in state of obscurity and uncertainty, by announcing that the period shall be a year and that that period shall stand abridged if another order was made to that effect.

4. On April 27,1965, the Joint Registrar made another order by which he directed the continuance of the board of management until further orders. It will be seen that the maximum period which can be fixed as the term of the board of management when it was first constituted is three years. It is also clear that when the term so fixed is extended, the maximum period of such extension can be two years. The Joint Registrar, when he extended the term on April 27, 1965, under

the second part of bye-law No. 22, left the matter again in a state of indefiniteness by announcing that the board of management will continue to function until further orders. The clear meaning of this extension is that the board of management can function until April 27,1967, unless the period of extension stands reduced by the fixation of a specific period by the Joint Registrar as the period of extension.

5. That that is the true position is not disputed by any one. But the controversy is about what was done by the Joint Registrar on May 18,1966. What was done by him by an order made on that date was to reconstitute the board of management which had been constituted on September 25,1964, in the first instance. The composition of the reconstituted board of management is at variance with its composition when it was first constituted. At least four persons who were in the first board of management are not in the reconstituted board, and four others are substituted in their not in the reconstituted board, and four others are substituted in their place. It is substitution of seven presidents of various co-operative societies for their named predecessors in their office does not.

6. The Assistant Director and the Assistant Registrar who were in the first board are also in the reconstituted board.

7. It was explained to us by Mr. Venkataramaiah, the special Government pleader, that amongst the four directors who were in the board of management when it was first constituted, one, namely, Mr. K.G. Wadiyar, who was a member of Parliament was dead by the time the board was reconstituted and so some one else had to take his place. It was also urged by him that in effect what was done by the Joint Registrar on May 18, 1966, was to continue in office the first board of management nominated by him.

8. We are of the opinion that what was done by the Joint Registrar was not the extension of the term of the first board of management nominated by him. The power exercisable under the second part of bye-law No. 22 is to continue the board of management which was brought into being in the first instance. There is no power available for the alteration of the composition on the board. Since the impugned order made by the Joint Registrar on May 18, 1966, so alters the composition of the board, it is plain that the reconstitution was beyond his

competence. We therefore quash the order of reconstitution.

9. In consequence, the order of reconstitution disappears, and what continues to operate is the second order made by the Joint Registrar on April 27, 1965, by which he extended the term of the board of management which he constituted in the first instance until further orders. That order is what now holds the field and that board of management which was originally constituted will continue to function as the board which can administer the bank and affairs.

10. At one stage our attention was asked by Mr. Ramachandra to the nomination of a certain Mr. Ulivappa as one of the members of the board of management. This was done by the impugned order which we have quashed. But that impugned order contains a recital that Mr. Ulivappa who was the present president of the nominated board of directors shall continue to be the president. Mr. Ramachandra asked us to say that Mr. Ulivappa who was nominated as one of the members in consequence of the disappearance of the impugned order, and cannot continue as the president of the nominated board.

11. But Mr. Venkataramaiah points out to us that after the death of Mr. Wadiyar and at some stage antecedent to the reconstitution by the impugned order, Mr. Ulivappa was appointed as president of the first nominated board of directors. We have been shown an order of the Joint Registrar made on January 31, 1966, by which Mr. Ulivappa was nominated as a director and also as the president. So, Mr. Ulivappa was both a director and a president some time before the impugned order was made. The order made by the Joint Registrar on January 31, 1966, is not called in question before us, and so, that order remains unaffected by what we have said in this case, and so there could be impediment to Mr. Ulivappa continuing as a director and as president under the unquestioned order made by the Joint Registrar on January 31, 1966.

12. The resultant position, therefore, is that all the members of the board of management as constituted on September, 25, 1964, except Mr. Wadiyar, who died thereafter, will continue to function as the board of management with Mr. Ulivappa as one other director who took the place of Mr. Wadiyar and who is also the President of that board.

13. This writ petition stands disposed of by the order made by us in this way, No costs.

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