Basanagouda Vs. State of Karnataka and Others

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Court : Karnataka

Decided On : Nov-04-1999

Reported in : AIR2000Kant224; 2000(1)KarLJ499

Judge : Chidananda Ullal, J.

Acts : Constitution of India - Articles 14, 174, 213(1 and 2); Karnataka Ordinance Act, 1999 - Sections 2 and 3; Karnataka Co-operative Societies Act, 1959 - Sections 28-A(6), 29-F(4, 6 and 8) and 29(2); Karnataka Co-operative Societies Act, 1958; Uttar Pradesh District Board Act, 1922 - Sections 71

Appeal No. : Writ Petition No. 27609 of 1999 connected with Writ Petition Nos. 23084 and 32665 of 1999

Appellant : Basanagouda

Respondent : State of Karnataka and Others

Advocate for Def. : Sri M.N. Ramanjaneya Gowda, Additional Government Adv., ;Sri R. Padmanabha and ;Sri L.M. Chidanandaiah, Advs.

Advocate for Pet/Ap. : Sri. F.V. Patil and ;Sri H.K. Vasudeva Reddy ;for Sri K. Nageshwarappa, Advs.

Judgement :
ORDER

1. In the first writ petition, the petitioner herein had sought for issue of writ in the nature of prohibition, prohibiting the respondents 3 to 5 from exercising their franchise in the election of the Chairman of the respondent 2-Bank schedule to be held on 7-8-1999 pursuant to the nomination dated 8-7-1999 made by the respondent 1 nominating the respondents 3 to 5 as Board of Directors under Section 29 of the Karnataka Co-operative Societies Act (henceforth in brief as the 'Act') as the Karnataka Ordinance No. 4 of 1999 conferring right to vote on the nominated members in the election had lapsed on 3-8-1999, whereas in the second writ petition, the petitioner-Director of the respondent 3-Bank had prayed for declaration of the above ordinance as unconstitutional, void and inoperativeand further for quashing of the meeting notice dated 29-6-1999, copy as at Annexure-C to that writ petition, issued by the respondent Co-operative Development Officer, Hadagali, convening the meeting of the Committee of Management of the respondent 3-Bank to hold the election of the office bearers of the Bank proposed to be held on 8-7-1999. The third writ petition was filed by the petitioner in the second writ petition to challenge the further election notice dated 1-9-1999 issued by his Society-respondent 2 in the third writ petition convening the meeting to elect the President and Vice-President on 10-9-1999, copy as at Annexure-C to the third writ petition.

2. I heard the learned Counsel for the petitioner, Sri F.V. Patil in the first writ petition and Sri H.K. Vasudeva Reddy, the learned Counsel appearing along with Sri K. Nageshwarappa in the second and third writ petition, so also I heard the learned Counsel, Sri R. Padmanabha, appearing for the cavettos-respondents 3 to 5 in the first writ petition and Sri Chidanandaiah, the learned Counsel appearing for the respondents 4 and 5 in the second writ petition.

3. The learned Additional Government Advocate had appeared for the State in all three petitions and further appeared for the respondent 2 in the second writ petition.

4. In all the writ petitions, in a way the validity of the Karnataka Ordinance No. 4 of 1999 in question is the common issue, whereas in the second and third writ petitions the additional issue is as to the validity of the two meeting notices, copies

as at Annexure-C to both the said writ petitions, convening the meeting of the Society (respondent 2 in both the petitions) by the Co-operative Development Officer for tbe purpose of election of the office bearers, one on 8-7-1999 and another on 3-8-1999.

5. For the purpose of convenience, the common issue involved in all the writ petitions I have taken up as Point No. 1, whereas the question of the validity of the meeting notices issued by the Co-operative Development Officer, copies as at Annexure-C to the second and third writ petitions, as Point No. 2 herebelow.

Regarding Point No. 1

6. At the outset, I feel it appropriate to quote the Karnataka Ordinance No. 4 of 1999, for it is with the issuance of that the litigation had commenced; the same reads as hereunder:

'Karnataka Ordinance No. 4 of 1999

Karnataka Co-operative Societies (Amendment) Ordinance

(Promulgated by the Governor of Karnataka in the fiftieth year of the Republic of India and Published in the Karnataka Gazette, Extraordinary, on the Sixth day of May, 1999)

An ordinance further to amend the Karnataka Co-operative Societies Act, 1959.

Whereas, the Karnataka Legislative Council is not in session and the Governor of Karnataka is satisfied that circumstances exist which render it necessary for him to take immediate action further to amend the Karnataka Co-operative Societies Act, 1058 (Karnataka Act 11 of 1959).

Now; therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Karnataka is pleased to promulgate the following ordinance, namely.-

1. Short title and commencement.--(1) This ordinance may be called the Karnataka Co-operative Societies (Amendment) Ordinance.

(2) It shall come into force on such date as the State Government may publish by notification appoint.

2. Amendment of Section 28-A.--Publish in Section 28-A of the Karnataka Co-operative Societies Act, 1959 (Karnataka Act 11 of 1959) (hereinafter referred to as the principal Act), in sub-section (6) for the words 'Elected members of the Committee', the words 'Members of the Committee' shall be substituted.

3. Amendment of Section 29F.--In Section 29F of the principal Act, in sub-sections (4) and (6), for the words 'Elected members of the Committee, the words 'Members of the Committee' shall be substituted.

Khurshed Alam Khan

Governor of Karnataka

By order and in the name of the Governor of Karnataka

Sd/-

(M.B. Hegde)

Secretary to Government

Department of Parliamentary Affairs and Legislation'.

7. Both the learned Counsel, Sri F.V. Patil, appearing for the petitioner in the first writ petition, the learned Counsel for the respondents 4 and 5 in the second writ petition, Sri Chidanandaiah and further the learned Additional Government Advocate, Sri M.N. Ramanjaneya Gowda had supported the impugned ordinance. They all argued that the ordinance in question was valid and constitutional but the same had lapsed on 3-8-1999 as the ordinance was not brought before the Legislature within six weeks from the date of reassembly of the Legislatures on 23-6-1999 to replace the same by an enactment.

8. The learned Additional Government Advocate had very promptly filed the detailed objection statements in first two writ petitions almost in similar lines. In

paras (2) to (4) of the objection statement filed by him in the first writ petition, the learned Additional Government Advocate had stated as hereunder:

'2. It is submitted that the first respondent exercising powers under Section 29 of the Karnataka Co-operative Societies Act, 1959 nominated the respondents 3 to 5 to the respondent 2-Society.

3. It is submitted that the grievance of the petitioner is that the nominated members are not entitled to vote in the election of the office bearers of the Committee of the Management i.e., the President and Vice-President as the ordinance promulgated by the Government of Karnataka by its Ordinance No. 4 of 1999 lapsed as the same was not approved by the both Houses of Legislature within six weeks from the date of reassembly of both the Houses and the nominated members cannot vote.

4. It is submitted that it is true that both Houses of Legislature i.e. the Legislative Assembly and Legislative Council reassembled on 23-6-1999 and the ordinance was not replaced by an enactment by approving the same by both the Houses within six weeks from the date of reassembly of both the Houses within six weeks and hence under Article 213 of the Constitution of India the ordinance ceases to be in force w.e.f. 3-8-1999'.

9. Sri Patil appearing for the petitioner in the first petition had relied upon the above statement of the learned Additional Government Advocate to buttresses his above argument. He had also cited before me two decisions. The first decision is the one in N.A. Subbarayappa v Registrar of Co-operative Societies and Another, and the second decision is the one in R.K. Garg v Union of India and Others. When the first one is dealing with the authority of a President of a Co-operative Society to continue beyond the term of office of six years, the second decision he had cited before me is on the point of the power of the President of India under Article 123 of the Constitution in the matter of promulgation of an ordinance and further life of ordinance so issued. In citing the second decision, Sri Patil had also argued that the ordinance in question had lapsed on 3-8-1999 as the same was not replaced by an Act of legislatures reassembled to transact their business on 23-6-1999. While turning to the facts of his case in the first writ petition, by taking

assistance from the objection statement filed by the learned Additional Government Advocate, Sri Patil also submitted that since the ordinance had lapsed on 3-8-1999, the issuance of the meeting notice to the respondents 3 to 5, the nominated Director to participate in the election of the office bearers of the petitioner-Society fixed to be held on 7-8-1999, copy as at Annexure-C to the first petition was totally illegal. He therefore prayed for grant of relief his party had sought for in the first writ petition.

10. Per contra, the learned Counsel for the contesting respondents 3 to 5, Sri Padmanabha counter argued that the ordinance issued under Article 213 of the Constitution in the ordinary course has got life for aminimum period of 6 weeks and for a maximum period of 7 and 1/2 months. In support of his argument, Sri Padmanabha had also cited before me the reported decision of the Apex Court in Dr. D.C. Wadhwa and Others v State of Bihar and Others Sri Padmanabha had specifically drawn my attention to the headnote 'B' in the said decision. I feel it appropriate to quote the same here and it reads as hereunder:

'The power conferred on the Governor to issue ordinances is in the nature of an emergency power which is vested in the Governor for taking immediate action where such action may become necessary at a time when the Legislature is not in Session. In view of the provisions of Article 174, the maximum life of an ordinance cannot exceed seven and a half months unless it is replaced by an Act of the Legislature or disapproved by the resolution of the Legislature before the expiry of that period. The power to promulgate an ordinance is essentially a power to be used to meet an extraordinary situation and it cannot be allowed to be 'perverted to serve political ends'. It is contrary to all democratic norms that the Executive should have the power to make a law, but in order to meet an emergent situation, this power is conferred on the Governor and an ordinance issued by the Governor in exercise of this power must, therefore, of necessity be limited in point of time. That is why it is provided that the ordinance shall cease to operate on the expiration of six weeks from the date of assembling of the Legislature. The Constitution makers expected that if the provisions of the ordinance are to be continued in force, this time should be sufficient for the Legislature to pass the necessary Act. But if within this time the Legislature does not pass such an Act,

the ordinance must come to an end'.

11. Therefore, according to him, it was not proper on the part of the other side to argue before this Court that the ordinance in question had lapsed on 3-8-1999. It was also argued by him that there was every justification on the part of the Secretary of the respondent 2-Bank in the first writ petition to issue the notice to his parties, copy as at Annexure-C to the writ petition, inviting them to participate in the meeting convened to be held on 7-8-1999 to elect the office bearers of the Society and that the same were in order and as such no interference therewith by this Court is called for in any way.

12. On the other hand, the learned Counsel for the petitioner in the second writ petition, Sri H.K. Vasudeva Reddy argued that the very ordinance was unconstitutional and void. Such an argument was advanced by him, firstly on the premise that prior to the introduction of the ordinance only the elected members were eligible for participating in the election of the office bearers of the Society and that the Co-operative Societies Act recognizes only the duly elected members of the Society to participate and vote in the election of the office bearers of the Society on the basis of principle: 'one man one vote' and further that the Co-operativeSociety is also as that of a local authorities adverted to Part III of the Constitution and as such, in issuance of the Ordinance there was violation of Article 14 of the Constitution and on the second premise that in issuance of the ordinance in question, when Section 28-A(6), Section 29-F and Section 29-F(6) stood amended, Section 29(2) of the Act had remained unamended or unaltered.

13. To sum up his argument, Sri Reddy had also submitted that the Karnataka Ordinance No. 4 issued in question is patently arbitrary, unconstitutional and contrary to Article 14 of the Constitution and as such be declared as unconstitutional, void and inoperative and further contrary to the statutory provision under Section 29(2) of the Co-operative Societies Act.

14. I feel it necessary to quote here Article 213 of the Constitution of India in this context, impugned order which the impugned order came to be issued. The same is as hereunder:

'213. Power of Governor to promulgate Ordinances during recess of Legislature.--(1) If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that the Governor shall not, without instructions from the President, promulgate any such Ordinance if-

(a) a Bill containing the same provisions would under this Constitution have required the previous sanction of the President for the introduction thereof into the Legislature; or

(b) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or

(c) an Act of the Legislature of the State containing the same provisions would under this Constitution have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President.

(2) An ordinance promulgated under this Article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance-

(a) shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as the case may be, on the resolution being agreed to by the Council; and

(b) may he withdrawn at any time by the Governor.

Explanation.--Where the Houses of the Legislature of a State having a Legislative Council are summoned to reassemble on different dates, the period of six weeks shall be reckoned from the later of those dates for the purposes of this clause.

(3) If and so far as an ordinance under this Article makes any provision which would not be valid if enacted in an Act of the Legislature of the State assented to by the Governor, it shall be void:

Provided that, for the purposes of the provisions of this Constitution relating to the effect of an Act of the Legislature of a State which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List, an ordinance promulgated under this Article in pursuance of instructions from the President shall be deemed to be an Act of the Legislature of the State which has been reserved for the consideration of the President and assented to by him'.

15. Under clause (2) of Article 213 of the Constitution, it is clear that an ordinance promulgated by the Governor will have the same force and effect as an Act of the Legislature of the State and that every such an ordinance shall be laid before the Legislative Assembly of the State, or where there is a Legislative Council in the State, before both the Houses, and shall cease to operate at the expiration of six weeks from the date of reassembly of the Legislatures. In filing the detailed objection statement, the learned Additional Government Advocate had stated that the Legislatures had met on 23-6-1999 and that the ordinance in question was not replaced by an enactment by the State Legislature and as such, the impugned ordinance expired on 3-8-1999, i.e., 6 weeks from 23-6-1999. When both the Houses of the State had reassembled and admittedly in the instant case, the ordinance in question was not replaced by an enactment in the hands of the State Legislatures, it is obvious that the impugned ordinance had lapsed on 3-8-1999.

16. The learned Counsel for the respondents 3 to 5 in the first writ petition, Sri R. Padmanabha in citing the decision before this Court in Dr. D.C. Wadhwa's case, supra, argued that the life of an ordinance could be for a minimum period of 6 weeks and maximum period of 71/2 months. While going through the said decision cited before me, it is clear that, the situation that was adverted to by the Supreme

Court was when the State Legislatures were dissolved under Article 174 of the Constitution. Hence, I don't think the same has got any application to the case on hand, since it is an admitted fact that both the Houses of Legislature had reassembled on 23-6-1999 and that the impugned ordinance was not replaced by an enactment by the State Legislatures on reassembly. That being so, it appears to me that the argument of Sri Padmanabha cannot be accepted. Therefore, I have got no hesitation to reject that argument of Sri Padmanabha, which I hereby do.

17. Now I turn to the argument of Sri Reddy advanced before me. He had argued that in issuance of the impugned ordinance there was violation of the Part III of the Constitution and that according to him theordinance was issued in violation of Article 14 of the Constitution. In substance, the argument of Sri Reddy, as I understood, was that in empowering nominating members to vote in the election of the office bearers of the Society, the very democratic principles stood flouted inasmuch as the nominated members were also given right to contest in the election of the office bearers of the Society. I do not contribute to that view of Sri Reddy, for it is only 3 nominated members of the Committee of Management, who were conferred with right of vote and further contest in the election of the office bearers of the Society under the impugned ordinance when the elected members would be a minimum of 9 and maximum would be of 21. In such a situation even if the nominated members numbering 3 were given right to contest in the election of the office bearers of the Society, they being the minority, I do not think, the democratic principles get flouted. I do understand that there is some dilution of the same but dilution is one and flouting is another. That dilution to some extent I find in amending Sections 28-A(6), 29-F(4) and 29-F(6) of the Act in issuance of the ordinance, for it had given right to the nominated members even to contest to the office of the office bearers of the Society. But that again cannot in any way be less democrative, for ultimately the nominated members have to be elected to the post of office bearers of the Society only in an election within themselves i.e., Committee Members of the Society including the nominated members. I would have appreciated the argument of Sri Reddy had the nominated members were directly nominated to be the office bearers of the Society. Here that was not the situation at all. That is one aspect of the case.

18. Now I turn to second limb of the argument of Sri Reddy on the point of illegality in issuance of the ordinance in question. That is mainly with regard to the contradictory provisions in the Co-operative Societies Act resulted in the issuance of the ordinance. He argued that by issuing the ordinance the provisions in Section 28-A(6), Section 29-F(4) and 29-F(6) of the Act came to be amended, when corresponding sub-section (2) of Section 29 of the Act also on the point of right to contest to the office of the office bearers of the Society had remained unaltered. That in fact, is the one of the grounds made out in the second writ petition too, for in the first ground made out in para (10) of the second writ petition i.e., W.P. No. 23084 of 1999, it is set out therein as under:

'10. Section 29 confers power upon the Government to nominate not more than 3 persons as its representatives on the Committee of the Management. The persons so nominated shall not have right to become office bearers of the Society (Section 29(2) of the Act). Section 28-A(6) provides that elected members of the Committee shall elect from among themselves the office bearers of the Co-operative Society by the ordinance. The words 'elected members' have been replaced by the words 'Members of the Committee'. This amendment confers power to participate in the election of President and Vice-President by the nominated members including the nominated persons representing financial institutions i.e., D.C.C. Bank and the Manager of the Bank, who is also aDirector by virtue of the bye-laws. Prior to the introduction of ordinance, only the elected members were qualified and eligible for electing President and Vice-President from among themselves. The co-operative movement is based upon the democratic principles. The Act also recognises that the members of the Bank are entitled to exercise right to vote in person on the basis of one person one vote. The co-operative movement is one of the policies along with local authorities enumerated in directive principles of the Constitution. The local authorities like Panchayats and Municipalities elect the office bearers from among the elected members of the respective institutions. Similar provision has been made in respect of co-operative institutions prior to the amendment of the Ordinance. The ordinance which is contrary to the directive principles and democratic principles, is violative of Article 14 of the Constitution. Section 29-F(4) which provides for convening the meeting of the elected members of the Committee for the purpose of electing President or Vice-President and Section 29-

F(6) which provides for filling of the casual vacancies at a meeting of the elected members of the Committee for the purpose of filling of the casual vacancy, confine to the elected members only. These provisions have not been altered by the Ordinance. Therefore, the ordinance is patently arbitrary, unreasonable and contrary to Article 14 of the Constitution'.

19. I feel it appropriate to quote here Section 29 of the Act in its entirety and the same reads as hereunder:

'29. Nominees of Government on the committee of an assisted Co-operative Society.--(1) The State Government may nominate not more than three persons as its representatives on the committee of any assisted society of whom one shall be a person belonging to the Scheduled Castes or Scheduled Tribes and one shall be a woman.

(2) The persons so nominated shall not have the right to become office bearers of the Society.

(3) The persons nominated under sub-section (1) shall hold office as members of the committee for such period as the State Government may, by order specify.

(4) Where an officer of Government is nominated under sub-section (1), such officer may, if unable to be present himself at any meeting of the committee, depute a subordinate officer to the meeting as his representative and such subordinate officer shall be deemed to be a person nominated as a representative of the State Government for the purpose of such meeting'.

20. Now if we read the impugned ordinance and sub-section (2) of Section 29 of the Act as above, it is clear that in issuance of the ordinance it is only Section 28-A(6), Section 29-F(4) and Section 29-F(6) of the Act stood amended, while sub-section (2) of Section 29 of the Act stands unamended. Therefore, I find every force in the argument of SriReddy that the Ordinance in question amending Sections 28-A(6), 29-F(4) and (6) of the Act was in contravention of the provision of Section 29(2) of the Act and as such the same is bad in law.

21. I think this is a casus omissus, for a draftsman had forgotten to provide for amendment of the corresponding sub-section (2) of Section 29 of the Act and the same had gone totally unnoticed till the impugned Ordinance No. 4 of 1999 came to be promulgated on 6-5-1999. The Courts always try to construct the words so as to give them sensible construction and prevent failure. But in the instant case, I do not think, the Court can help to wriggle out of the anomalous situation with certain parts of provisions of the Act came to be amended enabling the nominated members participate in the election to the committee of the Society, when the other part of the Act remained unamended to restrain, the nominated members from participating in such an election as observed by me by endorsing the argument of the learned Counsel for the petitioner in the second and third writ petitions, Sri Vasudeva Reddy.

22. Therefore, there is inconsistency between the two sets of provisions in the matter of participation of the nominated members in the election of the office of the office bearers of the Society. To be precise, such an inconsistency arises if one provision is given effect to resulting in giving no effect to the other provisions, for when Section 29(2) of the Act prohibits participation of the nominated members in the election to the office bearers of the Society, Sections 28-A(6) and 29-F (4)and (6) provided for quite the contrary. Hence, we have got a glaring and unfortunate hiatus.

23. In almost in similar situation, when Uttar Pradesh Act 1 of 1933 whereby Section 71 of the Uttar Pradesh District Boards Act, 1922 came to be amended, the corresponding Section 90 of the said Act remained unamended, leading to inconsistency in the Act, the Supreme Court in the case of Smt. Hiradevi and Others v District Board, Shahjahanpur, observed as follows:

'It was unfortunate that when the legislature came to amend the old Section 71 of the Act it forgot to amend Section 90 in conformity with the amendment of Section 71. But this lacuna cannot be supplied by any such liberal construction as the High Court sought to put upon. No doubt it is the duty of the Court to try and harmonise the various provisions of an Act passed by the legislature. But it is certainly not the duty of the Court to stretch the word used by the legislature to fill in gaps or

omissions in the provisions of an Act'.

24. In my considered view the very same situation is now before me as the corresponding Section 29(2) of the Act remained unamended in conformity with the amended Sections 28-A(6) and 29F(4) and (6) of the Act under the Ordinance hereunder impugned and as such the ratio ofthe above decision of the Apex Court has got total application to the case before me.

25. For the aforesaid reasons, I hold that the impugned Ordinance under challenge contravenes the provision in Section 29(2) of the Co-operative Societies Act and hence bad and cannot sustain in law.

Regarding Point No. 2

26. While turning to the impugned meeting notice dated 29-6-1999, copy at Annexure-C to the second writ petition and further the impugned meeting notice dated 1-9-1999, copy as at Annexure-C to the third writ petition, both issued by the Co-operative Development Officer, Hadagali, Sri Reddy argued that the same were in total negation of sub-section (8) of Section 29-F of the Act, for under the said provision right to convene the meeting of the newly elected Committee of Management for the purpose of election of the office bearers was vested in the Chief Executive of the Society and that despite such being the position in law, the respondent 2-Co-operative Development Officer, in both the writ petitions had convened such meetings in issuing the impugned notices at Annexure-C to the second and third writ petitions. Therefore, according to him, the same have to be quashed by this Court.

27. Now let us see what is provided for in sub-section (8) of Section 29-F of the Act.

28. Section 29-F(8) of the Act reads as hereunder:

'If the Chief Executive fails to convene the meeting in accordance with sub-sections (4) and (6), the Registrar or any person authorised by him to do so shall convene a meeting for the purposes specified in the said sub-sections'.

29. By reading of the above provision of law, it is clear that the Registrar or any person authorised by him can convene a meeting for the purpose specified in Section 29-F only when the Chief Executive fails to convene such a meeting in accordance with sub-sections (4) and (6) of Section 29-F of the Act. As I see in the instant case the Chief Executive of the petitioner-Society did convene such a meeting within 15 days of the election as contemplated under sub-section (4) of Section 29-F of the Act, but there was commotion and unruly situations to hold such a meeting in an orderly manner and there was intervention of the Police too and it is only thereafter the meeting thus convened earlier was adjourned. As I further see, in the said circumstances, the respondent 2-Co-operative Development Officer of the Department of Co-operation had issued impugned notices at Annexure-C to convene the meeting of the committee of management firstly at 12 noon on 8-7-1999 and secondly at 10.00 p.m. on 10-9-1999 for the purpose of electing the office bearers of the Society. To quote the first notice the one issued by the respondent 2 on 29-6-1999, copy as at Annexure-C to the second writ petition, the same reads as follows:

30. I should say here that by reading of the above notice so also the impugned notice at Annexure-C to the third writ petition, it is not clear therefrom as to whether the Registrar of the respondent 3-Society i.e., the jurisdictional Assistant Registrar of Co-operative Societies had authorised the respondent 2 to issue the impugned notice as Annexure-C as per 29-F(8) of the Act or not, for the impugned notices are silent on that aspect of the case. All that what are stated in the impugned notices are that the respondent 2 was directed under Section 29-F(8) of the Act for issuance of the same. As per sub-section (8) of Section 29-F of the Act, it is the Registrar or any person authorised by him has to issue such a notice and in the absence of the authorisation of the jurisdictional Registrar, I do not think, power was not available for the respondent 2-Co-operative Development Officer to issue the impugned meeting notices as at Annexure-C to second and third writ petitions. Even otherwise,the question of intervention of the Registrar or any person authorised by him to convene a meeting in the instant case would have been only in the event of the Chief Executive of the Co-operative Society had failed to convene the meeting in accordance with sub-sections (4) and (6) of Section 29-F of the Act. Even in issuance of the said notices, the respondent 2-

Co-operative Development Officer had not made that point therein clear to say that the Chief Executive did fail to convene such a meeting in accordance with sub-sections (4) and (6) of Section 29-F of the Act.

31. In that view of the matter, I find that the impugned notices issued by the respondent 2 dated 29-6-1999 and 1-9-1999, copies as at Annexure-C to the second and the third writ petitions were totally in violation of sub-section (8) of Section 29-F of the Act and as such, the same could not be sustainable in law. Therefore, I hold that the impugned notices dated 29-6-1999 and 1-9-1999 issued by the respondent 2-Co-operative Development Officer, copies as at Annexure-C to second and third writ petitions, were bad in law but I should add here in this context that they are too late to be quashed, for they have spent by themselves without being acted upon.

32. In view of the above conclusion I have reached in the three writ petitions, I pass the following: