

**Jindappa and Another Vs. State of Karnataka and Others**

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**Court :** Karnataka

**Decided On :** Jul-18-1998

**Reported in :** ILR1999KAR339; 1999(2)KarLJ634

**Judge :** Kumar Rajaratnam, J.

**Acts :** Karnataka Co-operative Societies Act, 1959 - Sections 30-B

**Appeal No. :** Writ Petition Nos. 31902 and 31903 of 1997

**Appellant :** Jindappa and Another

**Respondent :** State of Karnataka and Others

**Advocate for Def. :** Sri B. Veerappa, High Court Government Pleader and ;Sri B. Deshpande, Adv.

**Advocate for Pet/Ap. :** Sri Shivakumar Kalloor, Adv.

**Judgement :**

ORDER

1. The petitioners are the members of the 4th respondent-Bank. An election was held to the Committee of Management in 1993. That was for a period of three years. After the period of three years was over, the Government appointed a Special Officer, respondent 3 was the Special Officer for more than one year. The Administrator was looking after the Bank affairs, Totally 9 members were to be

elected as Directors for respondent-Bank. One person has to be elected from each of the Constituency i.e., Kalamala, Devasugur, Yapaladinni, Yeragera, Gilesugur and Matamari. One seat was reserved for a lady candidate from Raichur Hobli and one for SC/ST person from Chandrabanda Hobli and another person from non-borrowers members from Raichur Taluka. So, totally 9 members were to be elected.

2. The Deputy Registrar of Co-operative Societies, passed an order on 19-9-1997 to hold election to the Committee of Management of respondent 4 for the period 1997 to 2000. Respondent 2 was appointed as Special Officer for conducting the election to the Committee of Management. After receiving the intimation, respondent 2 issued a notification dated 6-10-1997 publishing the calendar of events. The calendar of events placed before me as Annexure-A.

3. As per the calendar of events, nomination was to start from 27-10-1997 and 28-10-1997, scrutiny was to be done on 29-10-1997, withdrawal was to be done on 30-10-1997 and the election was to be held on 4-11-1997. After the calendar of events were published number of persons filed their nominations. The petitioner No. 1 filed his nomination in the non-borrowers category. The 2nd petitioner also filed his nomination under SC/ST category for Chandrabanda Hobli Constituency. There were others also who were contesting the election in the respective constituencies.

4. It is also submitted by the petitioners that the petitioners and their group belong to the Congress-I party and therefore the State Government with an ulterior motive issued an order on 3-11-1997 stating that the election should be postponed for a period of 6 months to the 4th respondent-Bank.

5. It is not necessary to go into the question of mala fide. It would be sufficient to find out whether the order passed by the Government at Annexure-F would entitle the Society to have elections with a fresh calendar of events or whether the election should be conducted with the calendar of events already announced in accordance with law.

6. The reason given at Annexure-F was that the elections were postponed because there was drought conditions and the second reason was that there was complaint from the society to the effect that they have not received notice of calendar of events. If both these reasons are valid, a case can be made out for issuing fresh calendar of events. If these reasons are not valid in law, then there can be no doubt that the election should be conducted under the calendar of events which were announced by the 4th respondent. I am afraid no materials have been placed before this Court by the Society to hold that there was any irregularity in the preparation of electoral rolls. In fact, the learned Counsel for the Society strenuously submits that the electoral rolls have been properly prepared and notices have been issued. There is no specific averments in an affidavit form filed by the Administrator stating that notices were not issued to all the members. It is only the Government that has taken an extraordinary interest in this case by postponing the election at Annexure-F. Any way, the Administrator-the third respondent has issued a calendar of events and therefore in a democratic society it would not be proper to nullify the original calendar of events and to issue fresh calendar of events merely because the Government has passed an order at Annexure-F.

7. This Court has held that when an interim order is granted which stops the process of election, subsequently, when the interim order is vacated the election should be from the stage at which the interference takes place by reason of the interim order. In other words, the election should normally be held according to the original calendar of events, if the calendar of events have been issued. Of course, no calendar of events have been issued, then a fresh calendar of events may be issued after the interim order is vacated or after the writ petition is disposed of.

8. In other words, once a calendar of events were announced, the general rule is that the election shall be held as per the original calendar of events and the election should take place with fresh dates subsequent to the disposal of the writ petition or when the interim stay is vacated. Only those dates subsequent to the disposal of the writ petition or when interim order was vacated should be changed. The general rule further is if there is an interim order by the Court after the last date of filing of nominations then, when the stay is vacated, the election will take

place from where it was cut-off under the original calendar of events.

9. In this case, admittedly, all events were complete as per the calendar of events, except for holding the election, when the elections were to be held, Annexure-F was passed.

10. In that view of the matter, while affirming the Government Order at Annexure-F there will be a direction to the third respondent to conduct the election in accordance with law from the stage from where the election was stopped as a result of Annexure-F and the election will proceed in accordance with law as per the existing calendar of events. It is made clear as per the calendar of events, the tenure shall be only for a period of three years.

The writ petition is disposed of accordingly. No costs.

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