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Court : Karnataka

Decided On : Mar-28-2001

Reported in : ILR2001KAR3802; 2001(5)KarLJ523

Judge : Kumar Rajaratnam, J.

Acts : Karnataka Co-operative Societies Act, 1959 - Sections 2, 29-B, 29-F(3) and 29-F(5)

Appeal No. : Writ Petition No. 36820 of 2000

Appellant : Se Narappa and Others

Respondent : Holalkere Taluk Primary Co-operative Agriculture and Rural Development Bank Limited and Others

Advocate for Def. : Sri P. Sathyanarayana, Additional Government Adv. and ;Sri B.K. Manjunath, Adv.

Advocate for Pet/Ap. : Sri Shantesh Gureddi, Adv.

Disposition : Writ petition dismissed

Judgement :

ORDER

The Court

1. Writ petition is taken up with the consent of parties.
2. The petitioners are all Committee Members of the 1st respondent-Society. The 3rd respondent was the President. On 17-7-2000 the 3rd respondent submitted his resignation addressed to the Chief Executive. On 29-7-2000 the 3rd respondent withdrew his resignation.
3. The resignation of a member is dealt with under Section 29B of the Karnataka Co-operative Societies Act, 1959 (hereinafter referred to as the Act). Section 29B of the Act reads as follows.-

'Resignation of a member.--A member of a committee, other than a nominated member, may resign his membership in writing under his hand and delivered to the Chief Executive and his seat shall become vacant on the expiry of fifteen days from the date of such delivery unless within the said period of fifteen days he withdraws such resignation in writing under his hand and delivered to the Chief Executive. The Chief Executive shall place the letter of resignation before the meeting of the committee convened next after the delivery of such letter'.

(emphasis supplied)

According to Section 29B a member of the committee other than a nominated member may resign his membership in writing under his hand and delivered to the Chief Executive and his seat shall fall vacant on the expiry of fifteen days from the date of such delivery unless within the said period of fifteen days he withdraws his resignation in writing addressed to the Chief Executive.

4. The only question that arises for consideration in this writ petition is:

Whether the President of a Society can withdraw his resignation under Section 29B of the Act?

5. Mr. Shantesh Gureddi, the learned Counsel for the petitioners submitted that a resignation of a member of the Committee may become final on the expiry of fifteen days unless within the said period of fifteen days he withdraws the said

resignation. However, it was vehemently argued that Section 29B will have no application with respect to the office of the President, Vice-President or Vice-Chairman.

6. It was submitted by the learned Counsel for the petitioners that once a letter of resignation is submitted by the President, Vice-President or Vice-Chairman it will become final and binding on the Society.

7. The learned Counsel for the petitioners placed reliance on Section 29-F(3), which reads as follows.-

'In the event of vacancy in the office of President or Chairperson by resignation, death or removal or otherwise, the Vice-President or Vice-Chairperson shall perform the duties of the President or Chairperson as the case may be, until a member is duly elected as President or Chairperson'.

By this it was submitted that the legislature in its wisdom has not stated any method by which resignation should be accepted or a time fixed for acceptance of resignation as in the case of the member under Section 29B.

8. In other words Mr. Shantesh Gureddi, the learned Counsel for the petitioners submits that there are two methods with respect to resignation. If a committee member resigns, Section 29B shall apply; but if a President or Vice-President resigns since there is no provision for withdrawal of resignation, and the minute the letter of resignation is forwarded to the Chief Executive it will be binding on the Chief Executive and there is no provision for withdrawal of resignation in the case of the President or Vice-President.

9. Mr. B.K. Manjunath, the learned Counsel for the 3rd respondent submitted that the 3rd respondent submitted his resignation as President on 17-7-2000. He withdrew his resignation by a letter dated 29-7-2000. The withdrawal of resignation was within the expiry of fifteen days. The 3rd respondent's withdrawal of resignation was accepted. He further submitted that the 3rd respondent after withdrawing his resignation presided over the committee meetings on 31-8-2000, 20-9-2000, 30-10-2000 and 29-11-2000.

10. It is no doubt true that in Section 29B which deals with a resignation of a member reference is made only to a member of the Committee and no specific mention is made with regard to the office bearers. It is also no doubt true that Section 29-F(3) of the Act speaks about change of guard on the resignation of the president. Section 29-F(3) states that in the event of vacancy in the office of the President the Vice-President shall perform the duties of the President. However, there is no reference in Section 29-F(3) as to when the resignation has to take effect with respect to the President. On the contrary, Section 29-F(5) clearly indicates that the President shall hold office for a term of 2 1/2 years. What does all this add upto? Should there not be a harmonious construction of the statute? Is not the President a member of the Committee? What does Section 2(g) of the Act state? Section 2(g) reads as follows.-

' 'Office bearer' means the President, Vice-President, Chairperson, Vice-Chairperson, Liquidator, Administrator, Special Officer and includes a member of the Committee or any other person not being an employee empowered to exercise any power or perform any function in regard to the business of a Co-operative Society and to give directions in regard to policies affecting the business of the Society'.

11. Can there be two standards for withdrawal of resignation, one for the President and one for the Committee? Where does any provision of the Act indicate that there are two different methods in withdrawing a resignation letter? There cannot be two sets of standards, one set for the President and one set for the Committee members unless specifically mentioned in the statute.

12. It is the job of the Courts to interpret the statutes harmoniously.

13. Lord Denning in *Bedford Court Estate Limited v Asher*, spoke about the duties of the Judge to iron out the creases. He pronounced as follows.-

'The English language is not an instrument of mathematical precision. Our literature would be much poorer if it were. This is where the draftsmen of Acts of Parliament have often been unfairly criticised. A Judge, believing himself to be fettered by the supposed rule that he must look to the language and nothing else,

laments that the draftsmen have not provided for this or that, or have been guilty of some or other ambiguity. It would certainly save the Judges trouble if Acts of Parliament were drafted with divine prescience and perfect clarity. In the absence of it, when a defect appears, a Judge cannot simply fold his hands and blame the draftsman. He must set to work on the constructive task of finding the intention of Parliament, and he must do this not only from the language of the statute, but also from consideration of the social conditions which gave rise to it and of the mischief which it was passed to remedy, and then he must supplement the written word so as to give 'force and life' to the intention of the legislature. ... A Judge should ask himself the question, how if the makers of the Act had themselves come across this ruck in the texture of it, they would have straightened it out? He must then do as they would have done. A Judge must not alter the material of which the Act is woven, but he can and should iron out the creases'.

14. The Supreme Court in *Utkal Contractors and Joinery Private Limited and Others v State of Orissa and Others*, has pronounced as follows.-

'Even as Parliament does not use any word without meaning something, Parliament does not legislate where no legislation is called for. Parliament cannot be assumed to legislate for the sake of legislation, nor can it be assumed to make pointless legislation. Parliament does not indulge in legislation merely to state what it is unnecessary to state or to do what is already validly done. Parliament may not be assumed to legislate unnecessarily. Again, while the words of an enactment are important, the context is no less important. For instance, 'the fact that general words are used in a statute is not in itself a conclusive reason why every case falling literally within them should be governed by that statute, and the context of any Act may well indicate that wide or general words should be given a restrictive meaning (See Halsbury, 4th Edition, Vol. 44, page 874)'.

15. The Courts must understand the intention of legislation as a whole and the legislation should be read harmoniously. No legislation must be made to look absurd and a proper meaning should be given to the Act read as a whole and if necessary to iron out the creases.

16. I have no hesitation in coming to the conclusion that the mode of resignation under Section 29B applies both to members and office bearers.

17. There is no merit in the writ petition. The writ petition stands dismissed.

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