

: 1 :

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 31ST DAY OF MAY, 2017

BEFORE

THE HON'BLE MR. JUSTICE B. SREENIVASE GOWDA

WRIT PETITION NO.103416/2017 (CS-EL/M)

BETWEEN:

A.K.KARNACHI,
AGE: 39 YEARS, OCC: SERVICE,
R/O. KALASAPUR ROAD, GADAG 581203
... PETITIONER
(BY SRI K L PATIL AND
SRI S.S.BETURMATH ADVOCATES)

AND:

1. NWKRT'S EMPLOYEES CO-OPERATIVE
CREDIT SOCIETY LTD.
BY ITS EXECUTIVE OFFICER,
NWKRTC NEW BUS STAND,
HUBLI
2. JOINT REGISTRAR OF
CO-OPERATIVE SOCIETY,
NO.1, ALI ASCAR ROAD,
BANGALORE-52
3. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF CO-OPERATION
AMBEDKAR VEEDHI,
M.S. BUILDING, BANGALORE-1
... RESPONDENTS
(BY SMT.VEENA HEGDE, AGE FOR R.2 AND R.3)

: 2 :

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI TO QUASH THE IMPUGNED ORDER DATED 10.02.2017, PASSED BY RESPONDENT NO.2 IN NO.UBC - 1 / 164 / DISQUALIFICATION / 2016 - 17, VIDE ANNEXURE - D.

THIS WRIT PETITION COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioner in the above writ petition has sought for a writ of certiorari to quash the impugned order dated 10.2.2017, passed by the 2nd respondent, vide Annexure-D and to issue appropriate order or direction or writ as this Court deems fit to grant.

2. Heard the learned counsel for the petitioner and the learned Addl. Government Advocate for respondent Nos.2 and 3. Perused the writ petition and the Annexures produced along with the writ petition.

3. Learned counsel for the petitioner fairly admits that the petitioner has got an alternative and efficacious remedy of appeal for redressal of

his grievance under the provisions of Karnataka Co-operative Societies Act ('the Act' for short).

4. Learned Addl. Government Advocate appearing for respondent Nos.2 and 3 submits that if the petitioner is aggrieved by the order passed by the 2nd respondent, he has to challenge the same before the competent authority or Tribunal by preferring an appeal under Section 106 of the Act.

5. Perusal of Section 106 of the Act would show that the order impugned is an appealable order. If that is so, the writ petition is not maintainable. Therefore, justice would be met if this writ petition is disposed of as not maintainable, in view of an alternative and efficacious remedy available to the petitioner, by granting liberty to the petitioner to avail alternative remedy available to him under law. At this stage, the learned counsel for the petitioner

submits that petitioner would challenge the order impugned in this writ petition by preferring an appeal before the concerned appellate authority or Karnataka Appellate Tribunal and in such case the appellate authority/the Tribunal may be directed to dispose of the appeal expeditiously. Hence the following:

ORDER

i) Writ petition stands disposed of as not maintainable.

ii) It is open for the petitioner to challenge the order impugned in the writ petition at Annexure-D by preferring an appeal before the concerned appellate authority/ Karnataka Appellate Tribunal as the case may be under Section 106 of the Act. If any such appeal is filed within one month from the date of receipt of a copy of this order, the concerned appellate authority/ Karnataka Appellate Tribunal shall consider and dispose of the same on merits and in

: 5 :

accordance with law, after affording opportunity to all the parties, as expeditiously as possible in the facts and circumstances of the case at any rate within five months from the date of service of notice on all the parties in the appeal.

iii) If there is delay in filing such appeal and if appeal is accompanied with an application for condonation of the said delay in filing the appeal, it may be considered liberally by excluding the time spent on this writ petition from 06.04.2017 i.e., the date of filing of this writ petition till the date of issuance of a copy of this order.

**Sd/-
JUDGE**

Rsh