

IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH

DATED THIS THE 28th DAY OF FEBRUARY, 2020

BEFORE

THE HON'BLE MR.JUSTICE S.G. PANDIT

WRIT PETITION Nos.136663-6696/2020(CS-EL.M.)

BETWEEN:

1) MALLAPPA SHIVAPPA MELMALAGI, M-50/23 (SL.NO.172)

AGE: ABOUT 55 YEARS, OCC: AGRICULTURE,
R/O KAMADOD, RANEBENNUR TALUK,DIST: HAVERI.

2) SANTHOSH MALLAPPA MELMALAGI, M-108/27
(SL.NO.183)

AGE: ABOUT 23 YEARS, OCC: AGRICULTURE,
R/O KAMADODO, RANEBENNUR TALUK, DIST: HAVERI.

3) VEERESH UJJAPPA CHALAGERI, M-235/26 (SL.NO.179)

AGE: ABOUT 34 YEARS, OCC: AGRICULTURE,
R/O KAMADODO, RANEBENNUR TALUK,DIST: HAVERI.

4) UJJAPPA SHIDDAPPA CHALAGERI, M-236/26
(SL.NO.180)

AGE: ABOUT 56 YEARS, OCC: AGRICULTURE,
R/O KAMADODO, RANEBENNUR TALUK, DIST: HAVERI.

5) BASAVARAJ MAHADEVAPPA DHOLHOLE, M-205/11
(SL.NO.152)

AGE: ABOUT 58 YEARS, OCC: AGRICULTURE,
R/O KAMADODO, RANEBENNUR TALUK,DIST: HAVERI.

6) RAVIKUMAR BASAVANEPPA WADERHALLI, M-88/22
(SL.NO.168)

AGE: ABOUT 40 YEARS, OCC: AGRICULTURE,
R/O KAMADODO, RANEBENNUR TALUK, DIST: HAVERI.

- 7) SHIDDAMMA BASAVANEPPA WADERHALLI, M-89/22
(SL.NO.169)
AGE: ABOUT 52 YEARS, OCC: AGRICULTURE,
R/O KAMADODO, RANEBENNUR TALUK,DIST: HAVERI.
- 8) SHIVAPPA BASAPPA DHOLHOLE, M-119/4 (SL.NO.145)
AGE: ABOUT 48 YEARS, OCC: AGRICULTURE,
R/O KAMADODO, RANEBENNUR TALUK, DIST: HAVERI.
- 9) MARALSHIDDAYYA CHANABASAYA TODAD, M-170/25
(SL.NO.178)
AGE: ABOUT 35YEARS, OCC: AGRICULTURE,
R/O KAMADODO, RANEBENNUR TALUK,DIST: HAVERI.
- 10) BASAPPA SHIDLINGAPPA TODAD, M-99/27(SL.NO.181)
AGE: ABOUT 46 YEARS, OCC: AGRICULTURE,
R/O KAMADODO, RANEBENNUR TALUK, DIST: HAVERI.
- 11) SOMAPPA SHIDLINGAPPA TODAD, M-100/27
(SL.NO.182),
AGED ABOUT 40 YEARS, OCC:AGRICULTURE,
R/O KAMADODO, RANEBENNUR TALUK,DIST: HAVERI.
- 12) GONEPPA BASAPPA KUDLEPPANAVAR, M-239/16
(SL.NO.156)
AGE: ABOUT 65 YEARS, OCC: AGRICULTURE,
R/O KAMADODO RANEBENNUR TALUK, DIST: HAVERI.
- 13) KARABASAPPA NAGAPPA KADLEPPANAVAR, M-
181/21(SL.NO.166)
AGE: ABOUT 42 YEARS, OCC: AGRICULTURE,
R/O KAMADODO, RANEBENNUR TALUK,DIST: HAVERI.
- 14) HANUMANTAPPA NAGAPPA KADLEPPANAVAR, M-
181/21(SL.NO.167)
AGE: ABOUT 40 YEARS, OCC: AGRICULTURE,
R/O KAMADODO, RANEBENNUR TALUK, DIST: HAVERI.
- 15) SHIVANAGOUDA HANUMAGOUDA RAMALINGANAVAR,
M-123/10(SL.NO.59) AGE: ABOUT 65 YEARS, OCC:
AGRICULTURE,
R/O ITAGI RANEBENNUR TALUK,DIST: HAVERI.

- 16) HANAMAGOUDA BASANGOUDA , M-72/25 (SL.NO.101)
AGE: ABOUT 42 YEARS, OCC: AGRICULTURE,
R/O ITAGI RANEBENNUR TALUK, DIST: HAVERI.
- 17) SHANKARGOUDA SHIDDANGOUDA
RAMALINGANNAVAR, M-122(SL.NO 58)
AGE: ABOUT 62 YEARS, OCC: AGRICULTURE,
R/O ITAGI, RANEBENNUR TALUK, DIST: HAVERI.
- 18) PRABHUGOUDA NAGANGOUDA RAMLINGANNAVAR, M-
120/10 (SL.NO.56)
AGE: ABOUT 50 YEARS, OCC: AGRICULTURE,
R/O ITAGI RANEBENNUR TALUK, DIST: HAVERI.
- 19) KAREGOUDA RAMANGOUDA RAMALINGANNAVAR, M-
70/25 (SL.NO.99)
AGE: ABOUT 44 YEARS, OCC: AGRICULTURE,
R/O ITAGI, RANEBENNUR TALUK, DIST: HAVERI.
- 20) SUBHASGOUDA RAMANGOUDA RAMALINGANNAVAR ,
M-69/25 (SL.NO.98)
AGE: ABOUT 46 YEARS, OCC: AGRICULTURE,
R/O ITAGI, RANEBENNUR TALUK, DIST: HAVERI.
- 21) FAKEERGOUDA RAMANGOUDA RAMALINGANNAVAR, M-
121/10 (SL.NO.57)
AGE: ABOUT 54 YEARS, OCC: AGRICULTURE,
R/O ITAGI, RANEBENNUR TALUK, DIST: HAVERI.
- 22) VEERANGOUDA RAMANGOUDA RAMALINGANNAVAR, M-
68/25 (SL.NO.97)
AGE: ABOUT 63 YEARS, OCC: AGRICULTURE,
R/O ITAGI, RANEBENNUR TALUK, DIST: HAVERI.
- 23) PARAMESHGOUDA NAGANGOUDA RAMALINGANNAVAR,
M-71/25(SL.NO.100)
AGE: ABOUT 45 YEARS, OCC: AGRICULTURE,
R/O ITAGI, RANEBENNUR TALUK, DIST: HAVERI.

- 24) GUDDAPPA PARVATHAPPA BIDARI, M-168/26
(SL.NO.104)
AGE: ABOUT 54 YEARS, OCC: AGRICULTURE,
R/O ITAGI, RANEBENNUR TALUK, DIST: HAVERI.
- 25) SACHIN GUDDAPPA BIDARI, M- 207/27 (SL.NO.106)
AGE: ABOUT 30 YEARS, OCC: AGRICULTURE,
R/O ITAGI RANEBENNUR TALUK, DIST: HAVERI.
- 26) RAJENDRA PARASHURAM BASSYENAYAK, M-227/19
(SL.NO.81)
AGE: ABOUT 42 YEARS, OCC: AGRICULTURE,
R/O ITAGI RANEBENNUR TALUK, DIST: HAVERI.
- 27) BASANGOUDA NINGANGOUDA RAMALINGANNAVAR, M-
4/14 (SL.NO.66)
AGE: ABOUT 72 YEARS, OCC: AGRICULTURE,
R/O ITAGI, RANEBENNUR TALUK,DIST: HAVERI.
- 28) NINGANGOUDA BASANGOUDA RAMALINGANNAVAR, M-
168/2 (SL.NO.33)
AGE: ABOUT 44 YEARS, OCC: AGRICULTURE,
R/O ITAGI, RANEBENNUR TALUK, DIST: HAVERI.
- 29) CHANDRAGOUDA BASANGOUDA RAMALINGANNAVAR,
M-29/19 (SL.NO.80)
AGE: ABOUT 45 YEARS, OCC: AGRICULTURE,
R/O ITAGI, RANEBENNUR TALUK,DIST: HAVERI.
- 30) BASAPPA HALLAPPA BASSEYENAYAK, M-
181/18(SL.NO.75)
AGE: ABOUT 60 YEARS, OCC: AGRICULTURE,
R/O ITAGI RANEBENNUR TALUK, DIST: HAVERI.
- 31) HANAMAPPA HALLAPPA BASSEYENAYAK, M-183/18
(SL.NO.77)
AGE: ABOUT 56 YEARS, OCC: AGRICULTURE,
R/OITAGI, RANEBENNUR TALUK,DIST: HAVERI.
- 32) REVANAPPA HALLAPPA BASSEYENAYAK, M-182/18
(SL.NO.76)
AGE: ABOUT 54 YEARS, OCC: AGRICULTURE,

R/O ITAGI, RANEBENNUR TALUK, DIST: HAVERI.

33) HALESH PARASHURAM TALWAR @ BASSNAYAK, M-129/25 (SL.NO.102)
AGE: ABOUT 40 YEARS, OCC: AGRICULTURE,
R/O ITAGI, RANEBENNUR TALUK, DIST: HAVERI.

34) KARIYAPPA HALLAPPA BASSYENAYAK , M-184/18 (SL.NO.78)
AGE: ABOUT 31 YEARS, OCC: AGRICULTURE,
R/O ITAGI, RANEBENNUR TALUK, DIST: HAVERI.

.....PETITIONERS

(BY SRI.NAVEEN CHATRAD, ADV.)

AND

1. THE STATE OF KARNATAKA
DEPARTMENT OF CO-OPERATION
M.S.BUILDING, DR.B.RAMBEDKARVEEDHI
BENGALURU-560001.
RE P.BY ITS PRINCIPAL SECRETARY
2. THE STATE CO-OPERATIVE ELECTION COMMISSION,
3RD FLOOR, T.T.M.C 'A' BLOCK
SHANTI NAGAR, BENGALURU-560027
REPTD.BY ITS SECRETARY
3. THE DISTRICT CO-OPERATIVE ELECTION OFFICER/
JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
BELAGAVI
DIVISION
BELAGAVI-590001
4. DISTRICT LAND DEVELOPMENT BANK,
MAGAVI CHAMBER, HAVERI-581110,
R/BY ITS CHIEF EXECUTIVE OFFICER/MANAGER
5. THE RETURNING OFFICER
RANEBENNUR TALUK PRIMARY CO-OPERATIVE
AGRICULTURE AND RURAL DEVELOPMENT BANK LTD.
RENEBENNUR, TQ: RANEBENNUR, DIST: HAVERI AND
THE ASSISTANT REGISTRAR OF CO-OPERATIVE

SOCIETIES, HAVERI SUB-DIVISION, HAVERI

6. RANEBENNUR TALUK PRIMARY CO-OPERATIVE
AGRICULTURE AND RURAL DEVELOPMENT BANK LTD.
RENEBENNUR, TQ: RANEBENNUR, DIST: HAVERI, PIN
CODE: 581115
R/BY ITS MANAGER

.....RESPONDENTS

(BY SMT. SEEMA SHIVA NAIK, HCGP FOR R1)

(SRI. HEMANTKUMAR L HAVARAGI, ADV. FOR R2, 3 & 5)

(R4 AND R6-SERVED)

THESE WRIT PETITIONS IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF APPROPRIATE NATURE TO DECLARE THAT SECTION 20(2) (A-IV) OF THE KARNATAK CO-OPERATIVE SOCIETIES ACT, IS ULTRA VIRES AND LEGISLATIVE COMPETENCE AND ARTICLE 243ZI AND 243ZO OF THE CONSTITUTION OF INDIA IN THE INTEREST OF JUSTICE AND EQUITY. AND ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENTS TO PERMIT THE PETITIONERS TO PARTICIPATE IN THE ELECTION PROCESS INCLUDING RIGHT TO VOTE IN THE ELECTION PROCESS INCLUDING RIGHT TO VOTE IN THE ELECTION SCHEDULED TO BE HELD ON 31.1.2020 FOR THE MANAGEMENT OF COMMITTEE OF THE 6TH RESPONDENT BANK VIDE ANNEXURE-A WITHOUT APPLYING SECTION 20(2)(A-IV) AND (A-V) OF THE ACT.

THESE WRIT PETITIONS COMING ON FOR PRELIMINARY HEARING B GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

In these writ petitions, the petitioners have challenged the validity of Section 20(2)(a-iv) and (a-v) of the Karnataka Co-operative Societies Act, 1959 (for short, 'the Act') as ultra vires and also violative of Articles 243ZI and 243ZO of the Constitution of India and for a writ of mandamus directing the respondents to permit the petitioners to participate in the election without applying the provision of Section 20(2)(a-iv) and (a-v) of the Act.

2. This Court by interim order dated 30.1.2020 permitted the petitioners to vote in the election of the respondent-Society without reference to Section 20(2)(a-iv) and (a-v) of the Act, if they are otherwise eligible to cast their votes, subject to the result of these writ petitions.

3. Learned counsel appearing for the petitioners submits that the petitioners voted in the election in pursuance to interim direction of this Court.

Learned counsel for the petitioners submits that the petitioners are not pressing the prayer challenging the constitutional validity of Section 20(2)(a-iv) and (a-v) of the Act and that the writ petitions could be disposed of on the ground that the respondent-Society could not have applied the provision of Section 20(2)(a-iv) and (a-v) of the Act to the petitioners or to delete the petitioners' name from the eligible voters' list. It is also contended that the petitioners have not received the notice of Annual General Body Meeting as required under Rule 14-AJ of the Karnataka Co-operative Societies Rules, 1960 (for short, 'Rules, 1960'). Rule 14-AJ(2) of the Rules 1960 reads as follows:

14-AJ(2).- The Chief Executive, after the board decides the date and time of the general meeting to be convened, shall convene the annual general meeting by giving a notice of at least fifteen clear days as specified in the bye-laws. However, in the case of exigency, a special general meeting may be convened by giving a notice of at least ten clear

days in writing. The notice may be sent in the following modes, namely.-

(a) by ordinary post; or [by bulk post; or by courier]

(b) by e-mail; or

(c) by local delivery under proper acknowledgement; and

(d) by publication in the newspaper having wide circulation in the area of operation.

4. The above Rule contemplates, giving of 15 days clear notice of annual general meeting and same shall be sent by the modes mentioned therein including ordinary post. The respondent-Society even though served with Court notice has remained unrepresented. The Society has not come forward to deny or controvert the contention of the petitioners that they have not been served with the notice of annual general meeting of the respondent-Society. If the petitioners were not served with the notice of the annual general meeting of the Society as required under Rule 14-AJ of the Rules 1960, one cannot expect the petitioners to attend the annual

general meeting of the Society. Hence, only on the ground that the petitioners have not attended three consecutive annual general meeting, the respondent-Society could not have deleted the names of the petitioners from the eligible voters' list as they have not been served with notice of annual general meeting. Prima facie, principles of natural justice not having been followed, I hold that the petitioners could not have been deleted from the eligible voters' list on the ground that they have not attended three consecutive annual general meeting of the respondent-Society in the absence of service of notice of the annual general meeting of the Society. Presently, as the petitioners have exercised their franchise in the election held to the Society in pursuance to the interim order and the petitioners have not pressed the prayer-A with regard to validity of Section 20(2)(a-iv) and (a-v) of the Act, the writ petitions would no more survive for consideration. In the peculiar facts and circumstances of the present

case, the writ petitions are disposed as above without examining the validity of the above stated provision.

**Sd/-
JUDGE**

JTR