

**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 No.132896/2020 &
W.P. Nos.134836-134898 of 2020 (CS-EL/M)

BETWEEN

1. NAGENDRA RAMACHANDA BHAT
AGE; 42 YEARS
R/O: HILLURU, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 916

2. DAMODAR VINAYAK HEGDE
AGE; 67 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 679

3. GOPALKRISHNA SUBRAY BHAT
AGE;56 YEARS,
R/O: HILLURU, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 927

4. MANJUNATH RAMAKRISHNA HEGDE
AGE; 52 YEARS,
R/O: HILLURU, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 837

5. MASTI DEVU GOUDA
AGE; 60 YEARS,

R/O: GUNDABALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 677

6. NARAYAN NAGAPPA NAIK
AGE; 75 YEARS,
R/O: GUNDBALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 694

7. RAMANAND KALLU NAYAK
AGE: 56 YEARS,
R/O: GUNDBALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 225

8. LAXMI VENKATESH NAIK
AGE: 56 YEARS,
R/O: GUNDBALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1445

9. VENKATRAMANA BEERANNA NAYAK
AGE: 59 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 491

10. SUJIT TIMMANNA NAYAK
AGE: 29 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1080

11. SANDEEP TIMMANNA NAYAK
AGE: 30 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1081

12. GOPALKRISHNA NARAYAN GOUDA
AGE: 69 YEARS,

R/O:HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 616

13. DAMODAR CHARİYAMBU
AGE: 40 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1431

14. NAGESH RAMANAND NAYAK
AGE:31 YEARS,
R/O: PADUGERI, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1393

15. ANAND VITTAL HULUSWAR
AGE: 45 YEARS,
R/O: HOLEMAKKI, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1397

16. MANJUNATH ANNU AGER
AGE: 56 YEARS,
R/O: TOGSE, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1410

17. RAMADAS HONNAPPA NAYAK
AGE: 52 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1422

18. UMAKANT GOVIND NAYAK
AGE: 54 YEARS,
R/O: HILLURU, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1021

19. NAGESH RAMACHANDRA NAYAK

AGE: 56 YEARS,
R/O: HILLURU, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1050

20. RAVEESH RAMACHANDRA NAYAK
AGE: 42 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1067

21. GANAPATI TULUSU GOUDA
AGE: 56 YEARS,
R/O: GUNDBALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1075

22. NARASIMHA NARAYAN PATAGAR
AGE: 60 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 460

23. GURURAJ NARAYAN NAYAK
AGE: 38 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1722

24. SHRIKANT SOMU GOUDA
AGE: 32 YEARS,
R/O: GUNDBALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1344

25. JAYANT SOMU GOUDA
AGE: 34 YEARS,
R/O: GUNDBALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1345

26. SHASHIDHAR VENKANNA GAONKAR

AGE: 56 YEARS,
R/O: HILLURU, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 831

27. BALACHANDRA PARAMESHWAR NAYAK
AGE: 65 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 614

28. SHIVARAM RAMACHANDRA HEBBAR
AGE: 59 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1025

29. RAGHAVENDRA TOKU NAIK
AGE: 30 YEARS,
R/O: KADABALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1406

30. MAHADEVI RAMACHANDRA BHAT
AGE: 59 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 428

31. MAHABALESHWAR SUBRAY BHAT
AGE: 58 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 839

32. NARAYAN SUBRAY BHAT
AGE: 56 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 852

33. GANAPATI RAMAKRISHNA HEGDE

AGE: 64 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 858

34. TARA GANAPATI HEGDE
AGE: 65 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 859

35. RAMACHANDRA VENKATRAMAN BHAT
AGE: 62 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 878

36. SANTOSH PARAMESHWAR SHASTRI
AGE: 46 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO.1090

37. SURESH TOKU NAIK
AGE: 35 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 978

38. GOPALKRISHNA NARASIMHA HEGDE
AGE: 45 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1304

39. MAHADEVI SHIVARAM HEGDE
AGE: 76 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1225

40. ISHWAR TOKU NAIK

AGE: 46 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1277

41. SITABAI SUBRAY BHAT
AGE: 69 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 390

42. ANANT TRIYAMBAK HEBBAR
AGE: 65 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 583

43. SHIVANAND NARAYAN NAYAK
AGE: 56 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 271

44. ISHWAR JANNA BANDEKAR
AGE: 59 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 589

45. BHAGI PARAMESHWAR NAYAK
AGE: 68 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 210

46. RAJESHWARI TAMMANNA BHAT
AGE: 50 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 576

47. MAHADEV PARAMESHWAR GAONKAR
AGE: 56 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 598
48. GANGE KRISHNA GOUDA
AGE: 50 YEARS,
R/O: GUNDABALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 631
49. MANJUNATH TIMMANNA BANDEKAR
AGE: 58 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 681
50. NAGAPPA VENKANNA NAYAK
AGE: 65 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 646
51. ASHA GANAPATI BHAT
AGE: 56 YEARS,
R/O: GUNDABALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 743
52. NAGESH SUKRU PATAGAR
AGE: 54 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 751
53. UDAY MOTU GOUDA
AGE: 58 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 769

54. SHASHIKALA BOMMAYYA NAYAK
AGE: 45 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 967

55. LAXMI W/O NARAYAN NAYAK
AGE: 52 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 996

56. TIMMAPPA GONE GOUDA
AGE: 49 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1003

57. SAVITRI BEERANNA NAYAK
AGE: 41 YEARS,
R/O: GUNDABALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1326

58. GANESH NAGAPPA KINI
AGE: 52 YEARS,
R/O: GUNDABALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 969

59. VINOD MADAV NAYAK
AGE: 59 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1264

60. TIMMAPPA NAGAPPA NAYAK
AGE: 52 YEARS,
R/O: GUNDABALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 775

61. GANESH SHIVU GOUDA
AGE:56 YEARS,
R/O: NEVALSE, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1168

62. NAGAPPA TULUSU GOUDA
AGE: 46 YEARS,
R/O: GUNDABALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1389

63. SUKRU SHIVU GOUDA
AGE:46 YEARS,
R/O: GUNDABALA, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 1312

64. BOMMA SHIVU GOUDA
AGE: 56 YEARS,
R/O: HILLUR, ANKOLA
TQ: ANKOLA, DIST: UTTARA KANNADA
MEMBERSHIP NO. 808

PETITIONERS

(BY SRI. J.S.SHETTY, SMT. DEEPA UDIYAR, ADVOCATES)

AND

1. THE STATE OF KARNATAKA
DEPT OF CO-OPERATIVE SOCIETIES
M.S.BUILDING, BENGALURU-01
REPRESENTED BY ITS SECRETARY.

2. THE DEPUTY REGISTRAR OF
CO-OPERATIVE SOCIETIES,
AND ELECTION OFFICER,
DEPARTMENT OF CO-OPERATIVE SOCIETIES,
KARWAR, UTTARA KANNADA DISTRICT.

3. THE ELECTION AUTHORITY,
BY ITS COMMISSIONER, 3RD FLOOR
A-BLOCK, TTMC BUILDING
SHANTI NAGAR, BENGALURU-02

4. THE RETURNING OFFICER
AND SALE OFFICER,
HILLURU SEVA SAHAKARI SANGHA LIMITED,
HILLURU, ANKOLA TALUK,
DISTRICT : UTTARA KANNADA.

5. HILLURU SEVA SAHAKARI SANGHA LIMITED,
HILLURU, ANKOLA TALUK,
DISTRICT : UTTARA KANNADA.
BY ITS CHIEF EXECUTIVE OFFICER.

...RESPONDENTS

(BY SMT. Seema Shiva Naik, HCGP for R1, 2,
Sri. Hemanthkumar L.Havargi, Advocate for R3 & R4)

(R5 – SERVED BUT UNREPRESENTED)

THESE WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING THAT IS
MAY BE DECLARED THAT DECLARE THAT PROVISIONS OF
20(2)(A-IV) AND (A-V) OF THE KARNATAKA CO-OPERATIVE
SOCIETIES ACT IS UNCONSTITUTIONAL AND VOID; AND
ETC.

THESE WRIT PETITION COMING ON FOR PRELIMINARY
HEARING, 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 29.1.2020 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**

Kms