

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2020

BEFORE

THE HON'BLE MR.JUSTICE G.NARENDAR

W.P.NO.9049/2020 (CS-EL/M)

BETWEEN

1. SHAILENDRA JOIS K
S/O SRINIVASA MURTHY K
AGE 52 YEARS,

2. SOMASHEKAR K
S/O KRISHNADEVARAYYA K N
AGE 50 YEARS,

3. CHANDRASHEKAR H N
S/O NAGESH BHAT H N
AGE 54 YEARS,

4. SUBRAMANYA C V
S/O VENKATARAMAYYA
AGE 44 YEARS,

5. KRISHNAYYA V S
S/O SUBBA RAO
AGE 63 YEARS,

6. SANDESH H S
S/O SHIVANANDA RAO H V
AGE 35 YEARS,

7. SUBRAMANYA K R
S/O RAGHURAM THALAGODU
AGE 43 YEARS,

8. SUBRAMANYA A N
S/O NAGABHUSHAN RAO HOSURU
AGE 50 YEARS,

9. DINESH HEBBAR M P
S/O PATTABHIRAMA HEBBAR
AGE 46 YEARS,

10. GURURAJ KARANTH M K
S/O KRISHNAMURTHY KARANTH M S
AGE 48 YEARS,

11. SHRINATH N
S/O LATE NARAYANASWAMY
AGE 49 YEARS,

12. GANESH K R
S/O RAMACHANDRAYYA K
AGE 48 YEARS,

13. SUDHAKAR H K
S/O KRISHNA RAO H V
AGE 57 YEARS,

14. BHAGYALAXMI
W/O RAMAMURTHY N S
AGE 43 YEARS,

15. PUSHPALATHA U N
W/O SUNIL KUMAR H C
AGE 35 YEARS,

16. VENKATARAMANA K C
S/O CHANNAYYA K
AGE 56 YEARS,

PETITIONER NO.1 IS THE PRESIDENT,
PETITIONER NO.2 IS THE VICE-RESIDENT &
PETITIONERS NO.3 TO 15 ARE THE DIRECTORS &
PETITIONER NO.16 IS THE FUNCTIONAL DIRECTOR OF
APPORVA SOUHARDA SAHAKARI LTD.,
P.C.B. COMPLEX, BALEHONNUR,
N.R.PURA ROAD, N.R.PURA TALUK,
CHIKKAMAGALURU DISTRICT-577112.

...PETITIONERS

(BY SRI MAHESH R UPPIN, ADV.)

AND

1. STATE OF KARNATAKA
BY ITS SECRETARY,
DEPARTMENT OF CO-OPERATION,
M.S.BUILDING,
BENGALURU - 560 001.
2. THE CO-OPERATIVE ELECTION AUTHORITY
BY ITS SECRETARY,
3RD FLOOR, SHANTHINAGARA,
TTMC 'A' BLOCK, SHANTHINAGARA,
BENGALURU - 560 027.
3. DEPUTY REGISTRAR OF
CO-OPERATIVE SOCIETIES,
NEAR ZILLA PANCHAYATH OFFICE
MAIN ROAD,
CHIKKAMAGALURU-577 101.
4. KARNATAKA STATE SOUHARDA
FEDERAL CO-OP LTD.,
BY ITS MANAGING DIRECTOR,
NIRMAN BHAVAN, DR. RAJ KUMAR ROAD,
1ST BLOCK, RAJAJINAGAR,
BENGALURU - 560 010.
5. APOORVA SOUHARDA SAHAKARI LTD.,
P.C.B. COMPLEX, BALEHONNUR
N.R.PURA ROAD, N.R.PURA TALUK
CHIKKAMAGALURU DISTRICT - 577 112
BY ITS CHIEF EXECUTIVE OFFICER.

...RESPONDENTS

(BY SMT. PRATHIMA HONNAPURA, AGA. FOR R1 & R3,
SRI G.V.SHASHIKUMAR, ADV. FOR R2.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DT 14.07.2020 PASSED BY R-1 MARKED AS ANNEXURE-C ETC.

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

ORDER

Heard Sri. Mahesh R. Uppin, learned Counsel appearing on behalf of the petitioners, Sri.Prabhuling K. Navadgi, learned Advocate General along with Smt. Prathima Honnapura, learned Additional Government Advocate for respondent Nos.1 and 3 and Sri.G.V.Shashikumar, learned counsel appearing on behalf Karnataka State Co-operative Election Commission.

2. It is submitted by learned counsel for the petitioners that the fifth respondent is a Co-operative registered. The election to the committee of management of the fifth respondent was held on 17.10.2015 and the petitioners 1 to 8 and 10 to 15 were elected. The remaining directors are co-opted directors. Fifth respondent made a request to second respondent to hold election to the next committee of management before the expiry of the term of the present committee of management. Second respondent has not taken any steps to hold election till today.

3. It is further submitted by the learned counsel for the petitioner that on 14.07.2020 the Government passed an omnibus order postponing the election to the committee of managements of the Co-operatives in the State and for appointment of administrator wherever the term of the committee will come to an end. If the election is not held before the expiry of the term of the present committee of management, the administrator will be appointed and the petitioners would suffer disqualification from contesting the said election.

4. The learned counsel appearing on behalf of the petitioners would submit that in the light of the submissions made by the learned Advocate General during the hearing held on 24.08.2020 in connect writ petition which is extracted below and in the light of the memo filed by the learned counsel for the Karnataka State Co-operative Election Commission dated 26.08.2020 in the lead writ petition, the election to the petitioners' Society may also be directed to be held and would submit that the elections be completed expeditiously.

During the hearing on 24.08.2020 the learned Advocate General submitted as follows:-

'Learned Advocate General fairly submits that the Government has no objection to hold election insofar as it pertains to District Credit Co-operative Banks (DCC Bank) with the exception of the Bengaluru DCC Bank despite the fact that in respect of some of the DCC Banks, elections to the Primary Co-operative societies have not been held and representatives have not been elected so far. The said submission is made by the learned Advocate General having regard to the law laid down by the Hon'ble Apex Court in in the decision reported in (1974) 2 SCC 33.

The submission of the learned Advocate General is placed on record.'

The memo filed by learned counsel for respondent No.3/State Co-operative Election Authority/Commission in W.P.No.8920/2020 reads as under:

'MEMO'

That in compliance of the order dated 24/08/2020 passed by this Hon'ble Court, the Co-operative Election Authority is herewith submitting the following list of societies wherein

Election notification/Calendar of events are issued and the proposed plan of action, considering Rule 13D of The Karnataka Co-operative Societies Rules 1960, as follows:-

- 1. The List of Societies, where the Calendar of events is issued and the nominations process is started.**

The time required to complete the process by restarting/recommencing the process from where it has been stopped is – **15 days. (Fifteen Days).**

Annexure -A is enclosed herewith.
(Primary/ Secondary/ Federal).

- 2. The List of societies, where the Election Notification is issued and the voter list are finalized.**

The time required to complete the process by restarting/recommencing the process from where it has been stopped is – **20 days. (Twenty Days).**

Annexure -B is enclosed herewith.
(Primary/ Secondary/ Federal).

- 3. The List of societies, where the Election Notification is issued and the draft voter list published, but the voter list is not yet finalized.**

The Time required to complete the process by restarting/recommencing the process from where it has been stopped is – **20 to 45 days. (Twenty to Forty five Days).**

Annexure -C is enclosed herewith.

(Primary/ Secondary/ Federal).

4. The statement showing the number of societies, where the Election process is yet to be commenced.

*The time required for completing the Election process is **60 days. (Sixty Days)**.*

Sl.No.	Category	Number of societies
1	<i>Primary</i>	1762
2	<i>Secondary</i>	90
3	<i>Federal</i>	15

5. The Election process in respect of the Apex Co-operative Societies is not yet commenced.

The Election process can be commenced immediately after the completion of the aforesaid elections.

The above calendar proposed for completion of the election process by the Authority, is in respect of the societies to which the Government has agreed to hold Election, as per their Affidavit and Annexure/s dated 19/08/2020 filed in the present petition.'

5. Learned counsel for respondent No.2/State Co-operative Election Authority/Commission would submit that they would require 60 days to complete the election process in respect of fifth respondent. The submission appears to be fair.

6. The learned counsel Sri. Mahesh R. Uppin, appearing on behalf of the petitioners would submit that petitioners have no objection for holding of the elections within 60 days.

7. The submission of the learned Counsel is placed on record.

8. Hence, respondent Nos.2/State Co-operative Election Authority/Commission is directed to commence and complete the process of elections in respect of fifth respondent on or before 25.10.2020.

9. It is made clear that after the completion of the term of the existing Board if any Administrator is appointed, the Administrator shall not take any decisions having serious financial implications till the constitution of the new Board and the day to day affairs of the 5th respondent shall be managed by the Chief Executive Officer.

The petition is disposed off accordingly.

In view of disposal of the petition, I.A. 1/2020 for dispensation does not survive for consideration and is accordingly disposed of.

Sd/-
JUDGE

Chs
CT-HR