



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 29TH DAY OF NOVEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT PETITION NO. 107011 OF 2024 (CS-RES)

BETWEEN:

SIDDAPPA S/O. ANNAPPA HARAGAPURE
AGE. 77 YEARS, OCC. AGRICULTURE,
CHIEF PROMOTER,
NIYOJIT SHRI MAHADEV VIVIDODESH
PRATHAMIK GRAMEEN KRUSHI
SAHAKARI SANGH NIYAMIT,
SHIRGAONWADI,
AT. SHIRGAONWADI,
TQ. CHIKKODI, DIST. BELAGVI.
R/O. SHIRGAONWADI,
TQ. CHIKODI, DIST. BELAGAVI.
(BENEFIT OF SENIOR CITIZEN HAVE NOT CLAIMED)

...PETITIONER

(BY MISS. SANJANA S. MUDHOL, ADVOCATE FOR
SRI. SHIVARAJ P. MUDHOL, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF CO-OPERATION,
M.S. BUILDING, BENGALURU 560001.
2. THE ASSISTANT REGISTRAR OF CO OPERATIVE SOCIETY
CHIKKODI SUB DIVISION, CHIKKODI,
AT. CHIKKODI, DIST. BELAGAVI, PIN 591201

...RESPONDENTS

(BY SMT. KIRTELATA R. PATIL, HCGP)

THIS WP IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA, PRAYING TO, TO ISSUE WRIT IN THE
NATURE OF CERTIORARI TO QUASH THE IMPUGNED ORDER DATED



15/10/2024 IN NO.AR-11/RSR/30/2024-25 PASSED BY THE 2ND RESPONDENT VIDE ANNEXURE-B AND TO ISSUE WRIT IN THE NATURE OF MANDAMUS DIRECTING THE RESPONDENT NO.2 TO GRANT PERMISSION TO FLOUTING OF THE SHARE AMOUNT FOR PRE-REGISTRATION OF THE SOCIETY IN THE NAME OF THE NIYOJIT SHRI MAHADEV VIVIDODESH PRATHMIK GRAMEEN KRUSHI SAHAKARI SANGH NIYAMIT, SHIRAGAONWADI BY ALLOWING THIS WRIT PETITION IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE C.M. POONACHA

ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE C.M. POONACHA)

The present writ petition is filed seeking for the following reliefs:

"1. To issue writ in the nature of certiorari to quash the impugned order dated 15/10/2024 in no.AR-11/RSR/30/2024-25 passed by the 2nd respondent vide Annexure-B.

2. To issue writ in the nature of mandamus directing the respondent no.2 to grant permission to flouting of the share amount for pre-registration of the society in the name of the Niyojit Shri Mahadev Vividodesh Prathmik Grameen Krushi Sahakari Sangh Niyamit, Shiragaonwadi by allowing this writ petition in the interest of justice and equity."

2. The petitioner an agriculturist. Along with other residents of the village, the petitioner submitted a



proposal to establish a new society under the name and style of "Niyojit Shri Mahadev Vividodesh Prathmik Grameen Krushi Sahakari Sangh Niyamit, Shiragaonwadi" for the welfare of the farmers in the village. A copy of the proposal is produced as Annexure-A to the writ petition.

3. It is the case of the petitioner that without affording an opportunity of hearing and without the petitioner or any of the members being notified, the second respondent - Assistant Registrar passed the order bearing No.AR-11/RSR/30/2024-25. dated 15.10.2024 (Annexure-B to the writ petition). Challenging the same, the present writ petition is filed.

4. It is relevant to note that this Court in WP No.103718/2024 decided on 14.11.2024 considering a similar question, has held as follows:

"11. Rule 3(3) of the Rules which reads as follows:

"3. Formalities for registration.



(3) The Registrar on being satisfied that, the proposed society has reasonable chances of success and is going to be economically viable may permit the chief promoter to collect such amount of share capital from such number of persons intending to become the members of the proposed society within such period as he may specify."

12. This Court in the case of **Sachin S/o Anand Khot vs. The State of Karnataka and Others**¹ considering a similar fact situation has held as follows:

"3. The petitioner submitted an application only for permission to collect shares with an intention to establish a co-operative society and at this state respondent No.3 ought not to have rejected the application since the question of economic viability and chances of success of the co-operative society to be established is a matter, which requires to be considered at the time of registration.

4. Rule 3 of the Karnataka Co-operative Societies Rules, 1961, deals with formalities for registration and sub-rule (3) states that the registrar on being satisfied that the proposed society has reasonable chances of success and is going to be economically viable may permit the chief promoter to collect such amount of share capital from such number of persons intending to become the members of the proposed society within such period as he may specify. In other

¹ Order dated 06.02.2024 passed in WP No.100493/2024



words, the registrar is under an obligation to hear the petitioner to satisfy himself that the proposed society has reasonable chances of success and is going to be economically viable.

5. In the instant case, respondent No.3 without giving an opportunity of hearing to the petitioner to satisfy that the proposed society has reasonable chances of success and is going to be economically viable, has rejected the application and the same is in violation of principles of natural justice.

6. Accordingly, the writ petition is allowed. The impugned order dated 22.12.2023 passed by the 3rd respondent at Annexure-E is hereby quashed.

7. Respondent No.3 to grant permission to collect the share amount for pre-registration of Doodh Ganga Vividhodesha Prathamik Grameena Krushi Sahakari Sangha Niyamita, Hombaradi, Nippani talulka, subject to petitioner satisfying other requirements of law, after providing an opportunity of hearing to the petitioner.

8. Petitioner to be present before respondent No.3 on 20.02.2024 at 11.00 a.m. without awaiting for further notice from respondent No.3."

(emphasis supplied)

13. It is clear that this Court has held that respondent No.2 is under an obligation to hear the petitioner while passing the order under Rule 3 of the Rules.



14. The order dated 17.01.2024 (Annexure-D) having been passed without hearing the petitioner, on this ground alone, the relief sought for in the present writ petition is liable to be granted.

15. Although it is the vehement contention of the learned HCGP that having regard to the stipulations contained under Rule 3-B(iii) of the Rules, respondent No.2 considered the said aspect to the matter, the request made by the petitioner in the present writ petition is liable to be rejected, it is relevant to note that this Court having held that respondent No.2 was under an obligation to hear the petitioner before satisfying himself as to the requisites as contemplated under Rule 3(iii) of the Rules, respondent No.2 recording his findings with regard to the aspects as detailed under Rule 3-B(iii) of the Rules with affording an opportunity to the petitioner is erroneous and liable to be interfered with."

5. The learned HCGP has put the same contentions which has already been considered in WP No.103718/2024.

6. It is clear that the order bearing No.AR-11/RSR/30/2024-25 dated 15.10.2024 (Annexure-B to the writ petition) has been passed without hearing the



petitioner. In view of the same, the relief sought for by the petitioner in the present writ petition is liable to be granted.

7. Hence, the following:

ORDER

- i) The writ petition is partly allowed;
- ii) The order bearing No.AR-11/RSR/30/2024-25 dated 15.10.2024 (Annexure-B) passed by respondent No.2 is hereby quashed;
- iii) Respondent No.2 to grant permission to collect share amount for pre-registration of 'Niyojit Shri Mahadev Vividodesh Prathmik Grameen Krushi Sahakari Sangh Niyamit, Shiragaonwadi' subject to the petitioner satisfying other requirements of law after providing an opportunity of hearing to the petitioner;



- iv) The petitioner shall appear before respondent No.2 on 12.12.2024 at 11.00 a.m. without the requirement of any further notice in that regard from respondent No.2;
- v) Pursuant to the appearance of the petitioner on 12.12.2024, respondent No.2 shall conduct further proceedings in accordance with law.

Sd/-
(C.M. POONACHA)
JUDGE

SH
LIST NO.: 1 SL NO.: 44