

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF FEBRUARY 2018

PRESENT

**THE HON'BLE MR.H.G.RAMESH
ACTING CHIEF JUSTICE**



AND

THE HON'BLE MR. JUSTICE P.S.DINESH KUMAR

**WRIT APPEAL NO.6399/2017 &
WRIT APPEAL NO.6448/2017 (CS-EL/M)**

BETWEEN:

KARNATAKA GOVERNMENT SECRETARIAT
CO-OPERATIVE SOCIETY LTD.
NO.6, GROUND FLOOR
VIDHANA SOUDHA
DR.AMBEDKAR VEEDHI
BENGALURU-560 001
REPRESENTED BY ITS SECRETARY

... APPELLANT

(BY SRI Y.R.SADASIVA REDDY, SENIOR COUNSEL FOR
SRI SAHADEVA REDDY.D.N, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY
DEPARTMENT OF CO-OPERATION
VIKASA SOUDHA, DR.AMBEDKAR VEEDHI
BENGALURU-560 001
2. REGISTRAR OF CO-OPERATIVE SOCIETIES
NO.1, ALI ASKAR ROAD, BENGALURU-560 052
3. JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES AND ELECTION OFFICER

URBAN BANK DIVISION
OFFICE OF THE REGISTRAR OF
CO-OPERATIVE SOCIETIES
NO.1, ALI ASKAR ROAD, BENGALURU-560 052

4. THE CO-OPERATIVE ELECTION AUTHORITY
3RD FLOOR, SHANTINAGAR
TTMC A BLOCK, SHANTINAGAR
K.H.ROAD, BENGALURU-560 027
REPRESENTED BY ITS COMMISSIONER
5. THE RETURNING OFFICER
KARNATAKA GOVERNMENT SECRETARIAT
CO-OPERATIVE SOCIETIES LTD.,
OFFICE OF THE REGISTRAR OF
CO-OPERATIVE SOCIETIES
NO.1, ALI ASKAR ROAD
BENGALURU-560 052
6. SRI S.HARISH
S/O LATE SAGGAIAH
AGED ABOUT 39 YEARS
R/AT NO.72, KHB COLONY
J.B.KAVAL, NEAR KRISHNANDA NAGARA
POLICE QUARTERS, NANDINI LAYOUT
BENGALURU-560 094
7. SRI ABHIJIT S
S/O SRINIVASMURTHY.R
AGED ABOUT 28 YEARS
R/AT NO.3, 4TH CROSS
V.V.LAYOUT, SIDEDAHALLI MAIN ROAD
NAGASANDRA POST
BENGALURU-560 073

...RESPONDENTS

(BY SRI V.SREENIDHI, AGA FOR R1 TO R5;
SRI VINAYAKA B, ADVOCATE FOR C/R6 & R7)

THESE WRIT APPEALS ARE FILED UNDER SECTION 4 OF
THE KARNATAKA HIGH COURT ACT, 1961 PRAYING TO SET
ASIDE THE ORDER DATED 13.10.2017 PASSED BY THE LEARNED
SINGLE JUDGE IN WRIT PETITION Nos.46944-46945/2017.

THESE WRIT APPEALS COMING ON FOR PRELIMINARY HEARING, THIS DAY, **THE ACTING CHIEF JUSTICE** DELIVERED THE FOLLOWING:

J U D G M E N T

Aq.CJ (Oral):

1. The question that requires to be examined in this case is, whether '*the remaining term of office of the board*' referred to in Section 29-E of the Karnataka Co-operative Societies Act, 1959 ('the Act' for short) has to be computed from the date, when the vacancy in the office of the director of the board occurred, or from the date of notification to fill the vacancy?

2. These *intra Court* appeals are directed against the order dated 13.10.2017 passed by a learned Single Judge in Writ Petition Nos.46944-46945/2017. We have heard Sri Y.R.Sadasiva Reddy, learned Senior Counsel for the appellant, Sri V.Sreenidhi, learned Additional Government Advocate for respondent Nos.1 to 5, Sri Vinayaka.B, learned Counsel for respondent Nos.6 and 7 and perused the record.

3. To examine the aforesaid question, it is relevant to refer to Section 29-E of the Act, which reads as follows:

“29-E. Filling up of casual vacancy in the office of members of the Board.— Any vacancy in the office of members of the board of a co-operative society by reason of death, resignation, removal or otherwise, shall be filled up in such manner as may be specified in the bye-laws of such society:

Provided that the co-operative election commission shall conduct the election to fill up any vacancy in the office of the director of the board if the remaining term of office of the board is more than half of its original term:

Provided further that the board may fill up a casual vacancy on the board by nomination out of the same class of members in respect of which the casual vacancy has arisen, if the remaining term of office of the board is less than half of its original term:

Provided also that, if the Board fails to fill up such casual vacancy within three months of the date of occurrence, the Registrar shall fill up through nomination.”

A plain reading of Section 29-E of the Act extracted above indicates that '*the remaining term of office of the board*' referred to therein has to be computed from the date when the vacancy in the office of the director of the board occurred and not from the date of notification to fill the vacancy. There is nothing in the Section to suggest to the contrary. If so computed, *the remaining term of office of the*

board, as on the date when the vacancy in the office of the director of the board in the appellant-Society occurred, will be more than half of its original term. In such a circumstance, Section 29-E of the Act mandates holding of election to fill the vacancy on the board. Hence, we find no ground to interfere with the order of the learned Single Judge. The writ appeals are accordingly dismissed. In view of dismissal of the appeals, I.A.No.1/2017 stands dismissed.

Appeals dismissed.

**Sd/-
ACTING CHIEF JUSTICE**

**Sd/-
JUDGE**

cp*