

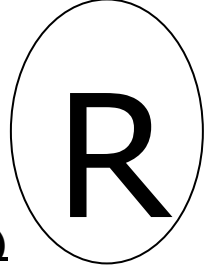
IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF MARCH 2017

BEFORE

THE HON'BLE MR. JUSTICE H.G.RAMESH

WRIT PETITION NOS.7338-7339/2012 (GM-KSR)



BETWEEN:

KARNATAKA STATE CRICKET ASSOCIATION
CHINNASWAMY STADIUM
M.G.ROAD, BANGALORE – 560 001
REPRESENTED BY ITS
HONORARY SECRETARY
SRI JAVAGAL SRINATH

... PETITIONER

(BY SRI VIVEK HOLLA, ADVOCATE
OF M/S. HOLLA & HOLLA, ADVOCATES)

AND:

THE DISTRICT REGISTRAR OF SOCIETIES
BANGALORE URBAN DISTRICT
NO.1, ALI ASKAR ROAD
BANGALORE – 560 052

... RESPONDENT

(GA SERVED)

WPs ARE FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 9.2.2012 PASSED BY THE KARNATAKA APPELLATE TRIBUNAL IN APPEAL NO.230/2011 VIDE ANNEXURE-M AND ALSO THE ORDER DATED 02.12.2010 PASSED BY THE RESPONDENT VIDE ANNEXURE-H ETC.

WPs COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

H.G.RAMESH, J. (Oral):

When will an amendment made to a procedural law is retrospective? This is the short question that arises for determination in this case.

2. Facts in brief: The petitioner-association amended rule 7(d)(vi) of its rules on 17.01.2010 by passing a resolution as provided under Section 10(1) of the Karnataka Societies Registration Act, 1960 ('the Act' for short) and sought for its registration as mandated under Section 10(2) of the Act by filing the amendment with the respondent-Registrar. It is relevant to state that sub-section (1) of Section 10 of the Act provides for amendment of the name and the rules and regulations of a society. Sub-section (2), before it was substituted by a new sub-section by *the Karnataka Societies Registration (Amendment) Act, 2011 [Karnataka Act No.38 of 2011]* ('the Amendment Act' for short), mandated that every amendment made under sub-section (1) should be filed with the Registrar within thirty days and if the Registrar was satisfied that the amendment was in accordance with the provisions of the Act and the rules, he

should register it. Prior to *the Amendment Act*, the Registrar had no power to condone the delay in filing the amendment. As the petitioner-association filed the amendment with the Registrar on 08.11.2010 i.e. after the time limit of thirty days provided under Section 10(2) of the Act, the respondent rejected registration of the amendment by order dated 02.12.2010. An appeal was preferred by the petitioner against the said order to the Karnataka Appellate Tribunal in Appeal No.230/2011. During the pendency of the appeal, *the Amendment Act* was enacted which came into force on 29.12.2011. By *the Amendment Act*, power was conferred on the Registrar to condone the delay of not exceeding one year in filing the amendment. The Karnataka Appellate Tribunal by its order dated 09.02.2012 dismissed the aforesaid appeal by affirming the order dated 02.12.2010 passed by the respondent-Registrar *inter alia* holding that *the Amendment Act* was not applicable to the case as it came into force with effect from 29.12.2011. Being aggrieved by the aforesaid two orders dated 02.12.2010 and 09.02.2012, the petitioner-association has presented these writ petitions.

3. The question that requires to be determined in these petitions is as to whether sub-section (2) of Section 10 of the Karnataka Societies Registration Act, 1960, as substituted by *the Amendment Act*, is retrospective. Before proceeding to examine the question, it is necessary to refer to *the Amendment Act* which reads as follows:

"KARNATAKA ACT NO. 38 OF 2011

(First published in the Karnataka Gazette, Extra-ordinary, on the Twenty Ninth day of December, 2011)

THE KARNATAKA SOCIETIES REGISTRATION (AMENDMENT) ACT, 2011

(Received the assent of the Governor on the Twenty Seventh day of December, 2011)

An Act further to amend the Karnataka Societies Registration Act, 1960.

Whereas, it is expedient further to amend the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960), for the purposes hereinafter appearing;

Be it enacted by the Karnataka State Legislature in the Sixty-second year of the Republic of India, as follows:-

1. Short title and commencement.-(1) This Act may be called the **Karnataka Societies Registration (Amendment) Act, 2011.**

(2) It shall come into force at once.

2. Amendment of Section 10.-In Section 10 of the Karnataka Societies Registration Act, 1960 (Karnataka Act 17 of 1960),

(a) for sub-section (2), the following shall be substituted, namely:-

"(2) Every amendment made under sub-section (1) shall, within thirty days be filed with the Registrar. If the Registrar is satisfied that the amendment made under sub-section (1) is in accordance with the provisions of this Act and the rules made thereunder, he shall register it. Such amendment shall have effect from the date of resolution passed under sub-section(1).

Provided that the Registrar if satisfied that there are sufficient cause for not filing the resolution within the said period, he may condone the delay in writing for a period not exceeding one year."

As could be seen from *the Amendment Act* extracted above, sub-section (2) of the Act was substituted by a new sub-section; it is relevant to state that both the original and the substituted sub-sections are procedural in nature.

4. Amendments to statutes dealing with merely matters of procedure and not affecting vested rights adversely are presumed to be retrospective and they apply to future actions as well as pending actions. Therefore, when a procedural provision of an Act is substituted by a new provision, which is also procedural in nature, and if the substitution does not affect vested rights adversely, it is to be inferred that the amendment is retrospective. As the provision substituted by *the Amendment Act* is procedural in nature and as the amendment does not affect or alter substantive rights, it will have to be construed to have retrospective effect. Hence, *the Amendment Act* will apply to all proceedings under Section 10(2) of the Act pending at any stage as on 29.12.2011, the date of commencement of *the Amendment Act*.

5. In view of the above, the view taken by the Karnataka Appellate Tribunal that *the Amendment Act* is only prospective and is not applicable to pending proceedings is not correct. Therefore, its order dated 09.02.2012 passed in Appeal No.230/2011 is set aside. In view of *the Amendment Act*, the matter requires to be reconsidered by the respondent-Registrar, and hence, his order dated 02.12.2010 is also set aside. The matter is remitted to the respondent for reconsideration in accordance with law. All contentions of the parties are kept open.

Petitions disposed of.

**Sd/-
JUDGE**

hkh.