



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF FEBRUARY, 2025

BEFORE

THE HON'BLE MRS JUSTICE K.S. HEMALEKHA

WRIT PETITION NO. 990 OF 2025 (CS-EL/M)

BETWEEN:

1. V K KANTHARAJU
S/O LATE KRISHNEGOWDA
AGED ABOUT 55 YEARS
VADDARAKOPPALU VILLAGE
CHUNCHANAKATTE HOBLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604
2. KAMALAMMA
W/O LATE KRISHNEGOWDA
AGED ABOUT 75 YEARS
VADDARAKOPPALU VILLAGE
CHUNCHANAKATTE HOBLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
3. THIMMEGOWDA
S/O LATE RAMEGOWDA
AGED ABOUT 77 YEARS
HALE MIRLE VILLAGE
MIRLEHOBLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
4. M R KEMPEGOWDA
S/O LATE RAMEGOWDA
AGED ABOUT 77 YEARS

Digitally signed by
MAHALAKSHMI B M
Location: HIGH
COURT OF
KARNATAKA



HALE MIRLE VILLAGE
MIRLEHOBOLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.

5. LOKANATH M B
S/O LATE BALARAMEGOWDA
AGED ABOUT 75 YEARS
MIRLE VILLAGE HOBOLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
6. M T DHANANJAYA
S/O LATE THAMMEGOWDA
AGED ABOUT 60 YEARS
MIRLE VILLAGE HOBOLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
7. M N DINESH
S/O LATE NAGARAJEGOWDA
AGED ABOUT 45 YEARS
MIRLE VILLAGE HOBOLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
8. M L PROKASH
S/O LAKKE GOWDA
AGED ABOUT 60 YEARS
MIRLE VILLAGE HOBOLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
9. T SHASHIDHARA
S/O THIRUMALEGOWDA
AGED ABOUT 55 YEARS



MIRLE VILLAGE HOBLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.

10. M C JAYANTHA
S/O YALLAPURU CHANNEGOWDA
AGED ABOUT 60 YEARS
MIRLE VILLAGE HOBLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
11. D.N SHIVEGOWDA (SHIVANNA)
S/O NANJEGOWDA
AGED ABOUT 65 YEARS
MIRLE VILLAGE HOBLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
12. M S GOVEINDARAJU
S/O SANNEGOWDA
AGED ABOUT 55 YEARS
MIRLE VILLAGE HOBLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
13. M S PRAKASHA
S/O LATE SUBBEGOWDA
AGED ABOUT 55 YEARS
MIRLE VILLAGE HOBLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
14. JAYASHEELAMMA K S
W/O BHIM RAO AMBEDKAR V B
AGED ABOUT 60 YEARS
MALANAYAKANAHALLI VILLAGE



SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.

15. NATARAJU
S/O MUDDEGOWDA
AGED ABOUT 55 YEARS
MIRLE VILLAGE HOBLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
16. SHIVALINGAIAH
S/O BASAVEGOWDA
AGED ABOUT 63 YEARS
MIRLE VILLAGE HOBLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
17. B UMESHA
S/O BASAVEGOWDA
AGED ABOUT 60 YEARS
MALANAYAKANAHALLI VILLAGE
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
18. SHIVANNA
S/O LATE RAMEGOWDA
AGED ABOUT 55 YEARS
HALE MIRLE VILLAGE
MIRLE HOBLI
SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.
19. DEEPAK M N
S/O NAGARAJEGOWDA
AGED ABOUT 42 YEARS
MIRLE VILLAGE HOBLI



SALIGRAMA (TQ)
MYSORE DISTRICT 571 604.

...PETITIONERS

(BY SRI. RAMESH K R., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF CO-OPERATION
M.S. BUILDING
DR.B.R.AMBEDKAR VEEDHI
BENGALURU-560 001
REPRESENTED BY ITS PRINCIPLE SECRETARY.
2. THE SATE CO-OPERATIVE ELECTION COMMISSION
IIIRD FLOOR, SHANTHI NAGAR,
T.T.M.C. A BLOCK,
SHANTHI NAGAR,
BANGALORE 560 027,
REPRESENTED BY ITS SECRETARY.
3. JOINT REGISTRAR CO-OPERATIVE
SOCITIES AND ELECTION OFFICER,
MYSORE ZONE,
MYSORE 570 009.
4. THE ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETIES
HUNSUR SUB-DIVISION, HUNSUR,
MYSORE DISTRICT 571 105.
5. THE RETURNING OFFICER
K.R.NAGARA TALUK PRATHAMIKA
KRUSHI MATTU GRAMEENA ABHIVRUDDI
BANK NIYAMITHA,



K.R.NAGARA,
MYSORE DISTRICT 576102.

6. K.R. NAGARA TALUK PRATHAMIKA
KRUSHI MATTU GRAMEENA ABHIVRUDDI
BANK NIYAMITHA,

(REGISTERED UNDER THE KARNATAKA
CO-OPERATIVE SOCIETIES ACT)
K.R.NAGARA,
MYSORE DISTRICT 576 102
REPRESENTED BY ITS MANAGER.

...RESPONDENTS

(BY SRI. SIDHARTH BABU RAO, AGA FOR R1, R3, R4 AND R5;
SRI. T.L. KIRAN KUMAR, ADVOCATE FOR R2)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF
THE CONSTITUTION OF INDIA PRAYING TO DIRECTING THE R2
TO R6 TO INCLUDE THE NAME OF THE PETITIONERS IN THE
ELIGIBLE VOTERS LIST AND PERMIT THE PETITIONERS TO
VOTE IN THE ELECTIONS TO THE R6, WHICH IS SCHEDULED
TO BE HELD ON 19.01.2025 AND ETC.

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

CORAM: HON'BLE MRS JUSTICE K.S. HEMALEKHA



ORAL ORDER

Petitioners are seeking to direct respondents to include the names of petitioners in the eligible voters list and permit the petitioners to cast their votes in the election of respondent No.6-Bank, which was scheduled to be held on 19.01.2025.

2. This Court, by way of interim arrangement on 17.01.2025, permitted the petitioners to cast their votes in the ensuing elections scheduled to be held on 19.01.2025 to the Managing Committee of respondent No.6-Bank subject to the final outcome of this writ petition.

3. The challenge in this writ petition is on the premise that notice under Rule 13 of the Karnataka Co-Operative Societies Rules, 1960 ('the KCS Rules, 1960' for short) is not issued.

4. Rule 13-D of the KCS Rules, 1960 reads as under:



"13-D. Preparation of electoral rolls and calendar of events.—(1) Election Officer shall, after due verification, send a consolidated list of all co-operative societies in the district where elections are due at least 120 days before the date of expiry of the term of office of the boards to the Co-operative Election Authority indicating therein the following particulars.—

- (a) the name and address of the society;
- (b) number of elected directors of the board;
- (c) the date of expiry of the term of office of the board;
- (d) the proposed places where the elections are to be held or other particulars as required by the Co-operative Election Authority.

(2) The Co-operative Election Authority shall, on receipt of such reports from the Election Officer, containing the list of cooperative societies where elections are due, publish the calendar of events for the preparation of electoral rolls and the conduct of elections of the boards of the co-operative societies indicating the name and address of each society.

(2-A) The election officer shall take steps for publication of voter list who are not eligible to vote in the following manner, namely.—



- (i) *For publication of draft ineligible electoral list, the chief executive of every cooperative Society shall prepare notice in respect of members not attending three out of the last five annual general body, meetings and members not utilising such minimum services or facilities in a co-operative year as specified in the bye-laws for three consecutive co-operative years.*
- (ii) *The chief executive of every co-operative society shall send above prepared notice to all ineligible members, fifteen days prior to six months to the date of election of the board by registered post and an opportunity shall be given to such member to file their objections, if any within fifteen days from the date of notice.*
- (iii) *The chief executive of every co-operative society shall submit the list of ineligible voters to the election officer along with their objections and also produce the records pertaining to absence from general body meeting with attendance and services utilised by members. He has to produce the records for having sent the notice along with acknowledgement to the election officer within thirty days from the date of notice as specified by the election officer.*



- (iv) *The chief executive of every cooperative society shall state in his notice that the ineligible voter can appear before the election officer between thirty days to sixty days from the date of notice to get the remedy.*
- v) *The election officer has to hear and dispose the objections filed by the ineligible voters within sixty days from the days of submission of objections from such voters.*
- (vi) *The final list of ineligible voters shall be published on or before fifteen clear days prior to the date of election.*

(3) *The Election Officer shall take steps for publication of voters list in the following manner, namely.-*

- (a) *for publication of draft eligible list, a list of defaulters, a list of members whose repayment falls due, before the election date clear fifty days;*
- (b) *for calling objections, if any, calling upon the defaulter members to repay the amounts due to the co-operative societies on or before thirty clear days prior to the date of election;*
- (c) *the scrutiny and verification of the voters list after payment by defaulters etc., clear twenty days before the date of election;*



(d) for publication of final eligible voters list before fifteen clear days prior to the date of election.

(4) It shall be the duty of every society to furnish correct information required by the Election Officer to enable him to approve the electoral rolls as directed by the Co-operative Election Authority.

(5) The chief executive of every co-operative society shall prepare (i) a draft list of the eligible members or representatives and delegates with right to vote, (ii) a list of members whose repayments will fall due before the date fixed for publication of final electoral roll, (iii) a list of defaulters, (iv) a list of other members or representatives and delegates who are not eligible to vote at a general election indicating the reasons for ineligibility memberwise on the basis of entries in the updated membership register specifying, -

(a) the name of the member or representative, the admission number, the name of the parent or husband and the address of such member or representative in the case of an individual member;

(b) the admission number, the name of the society, the name of the delegate proposed to



represent the society in the case of a member society,

and submit the said lists to the Election Officer along with the related books, records and documents and any other information as the Election Officer may require, at least sixty days before the date of election.

(6) The Co-operative Election Authority shall call upon the Chief Executive of the co-operative society to obtain from the member society, the name of an authorised member of the board of such society as a delegate, together with the resolution of the board of the said society and the specimen signature along with the photograph of the delegate duly attested and bearing the seal of the society and furnish all such information under sub-rule (5).

(7) The final electoral roll shall consist of the following,–

- (a) all the individual members with right to vote in respect of a primary co-operative society; or*
- (b) all the individual members and the delegates of the members societies with right to vote in respect of a secondary co-operative society; or*



(c) *all the delegates of the member societies with right to vote in respect of a federal and an apex society.*

(8) *The copy of such electoral roll in respect of each society shall be kept open for inspection in the office of such society as also in the office of the Election Officer.*

(9) *The election calendar of events for general election of directors of the board shall provide for. –*

- (a) *date of notification inviting nomination;*
- (b) *last date for receipt of nomination;*
- (c) *date and time for scrutiny of nomination;*
- (d) *date and time for publication of list of validly nominated candidates;*
- (e) *date and time for withdrawal of nomination papers;*
- (f) *Date and time for publication list of contesting candidates;*
- (g) *Date and time for allotment of symbols and publication of contesting candidates with symbols;*
- (h) *Date and time of poll;*
- (i) *Date and time of counting and declaration of results.”*



5. The case of the petitioners is that the petitioners have paid all membership/shareholders due to respondent No.6-Bank and attended all the annual general body meetings whenever they have received notice from respondent No.6-Bank, in spite of which respondent No.6-Bank has dropped the petitioners from the eligible voters list and the provisions of Rule 13-D of KCS Rules, 1960 is overlooked by respondent No.6-Bank.

6. The Co-Ordinate Bench of this Court in the case of ***Sri. B Ganganna and others Vs. The State of Karnataka, Department of Co Operation and others***¹ (*B Ganganna*) had given deliberate consideration to the provisions of Rule 13-D of the KCS Rules, 1960 and adjudication of dispute under Section 70 of the Karnataka Co-Operative Societies Act, 1959 ('KCS Act, 1959' for short). The Co-Ordinate Bench of this Court framed the following points for consideration at paragraph No.9, which reads as under:

¹ ILR 2024 KAR 1901



"9. In the light of the contentions raised, the following questions arise for consideration;

(a) Whether a writ petition under Article 226 of the Constitution of India is maintainable (before the publication of the calendar of events under Rule 14) to redo the voters' list for violation of Rule 13-D(2-A) of the Rules, 1960, in preparing the eligible and ineligible voters' list?

(b) Whether the authority acting under Section 70(2)(c) of the Act, 1959 can decide the validity of the electoral roll vis-à-vis Rule 13-D(2-A) of Rules, 1960?

(c) *Whether the judgments of co-ordinate Bench of this Court in **Mohammad Beary and H.S. Raju** supra are per incurium and contrary to the law in **Election Commission of India through Secretary** supra."*

(Emphasis supplied)

7. The Co-Ordinate Bench after giving deliberate consideration to various judgments has held at paragraph Nos.50 and 51 as under:

"50. For the reasons recorded, this Court concludes as under:

(a) *The preparation of electoral roll under Rule, 13-D(2-A) of the Karnataka Co-Operative Rules 1960 is an integral part of the election*



process in the context of a question whether the writ petition is maintainable when the challenge is laid to the procedure initiated for preparing electoral roll.

- (b) In a dispute under Section 70(2)(c) of the Karnataka Co-operative Societies Act, 1959, the Authority under Section 70 can decide the question on the validity of electoral roll prepared under the Rules, 1960 and its impact on the election.*
- (c) The judgments in **MOHAMMAD BEARY** and **H.S. RAJU** are not per incurium*
- (d) The writ petition under Article 226 of Constitution of India to challenge the electoral roll on the ground of non compliance of Rule 13-D(2-A) of Rules, may lie in exceptional cases.*

51. Based on the conclusions arrived at in the facts and circumstances of the case, this Court is of the view that no exceptional case is made out in this petition to exercise Article 226 jurisdiction. This Court has not expressed any opinion on the eligible and ineligible voters' list prepared during the pendency of the petition. Hence, the following:

ORDER

Writ petition is disposed of on the following terms:



- (i) *The returning officer shall count the votes cast in the election held on 21.01.2024, to the Board of the 6th respondent bank, and shall announce the results.*
- (ii) *The liberty is reserved to the petitioners or any aggrieved person to raise objections to the validity of the electoral roll in an election petition under Section 70(2)(c) of the Karnataka Co-operative Societies Act, 1959.*
- (iii) *If such a dispute is raised, the Authority under Section 70 of the Karnataka Co-operative Societies Act, 1959, shall examine all questions including the question relating to validity of the eligible and ineligible voters' list and impact on the election to the Board of the 6th respondent – Bank.*
- (iv) *Nothing is expressed on the merits of the eligible and ineligible voters' list published during the pendency of the petition and said question kept open to be decided in the dispute under Section 70 of the Karnataka Co-operative Societies Act, 1959, if raised."*

8. Section 70 of the KCS Act, 1959 reads as under:

"70. Disputes which may be referred to Registrar for decision.–(1) Notwithstanding



anything contained in any law for the time being in force, if any dispute touching the constitution, management, or the business of a co-operative society arises.-

- (a) among members, past members and persons claiming through members, past members and deceased members, or*
- (b) between a member, past member or person claiming through a member, past member or deceased member and the society, its board or any officer, agent or employee of the society, or*
- (c) between the society or its board and any past board, any officer, agent or employee, or any past officer, past agent or past employee or the nominee, heirs, or legal representatives of any deceased officer, deceased agent, or deceased employee of the society, or*
- (d) between the society and any other co-operative society, or a credit agency.*

such dispute shall be referred to the Registrar for decision and no civil or Labour or Revenue Court or Industrial Tribunal shall have jurisdiction to entertain any suit or other proceeding in respect of such dispute.



(2) For the purposes of sub-section (1), the following shall be deemed to be disputes touching the constitution, management or the business of a co-operative society, namely.–

- (a) a claim by the society for any debt or demand due to it from a member or the nominee, heirs or legal representatives of a deceased member, whether such debt or demand be admitted or not;*
- (b) a claim by a surety against the principal debtor where the society has recovered from the surety any amount in respect of any debt or demand due to it from the principal debtor, as a result of the default of the principal debtor whether such debt or demand is admitted or not;*
- (c) any dispute arising in connection with the election of a President, Vice-president or any office-bearer or Member of board of the society.*
- (d) any dispute between a co-operative society and its employees or past employees or heirs or legal representatives of a deceased employee, including a dispute regarding the terms of employment, working conditions and disciplinary action taken by a co-operative society notwithstanding anything contrary*



*contained in the Industrial Disputes Act, 1947
(Central Act 14 of 1947);*

(e) a claim by a co-operative society for any deficiency caused in the assets of the co-operative society by a member, past member, deceased member or deceased officer, past agent or deceased agent or by any servant, past servant or deceased servant or by its board, past or present whether such loss be admitted or not.

(3) If any question arises whether a dispute referred to the Registrar under this section is a dispute touching the constitution, management or the business of a co-operative society, the decision thereon of the Registrar shall be final and shall not be called in question in any court.

(4) x x x x x

(5) x x x x x"

9. The plain reading of Section 70 makes it clear that an extensive and exhaustive mechanism is provided under the aforesaid Section and the authority under Section 70 can decide the question on the validity of electoral roll prepared under the Rules, 1960 and its



impact on the elections, whether the petitioners are the eligible voters and have paid membership dues, or annual general body meetings are attended or availed the minimum services are all questions of fact, which have to be decided under Section 70 of the KCS Act, 1959 and the writ petition under Article 226 of the Constitution of India to challenge the electoral roll, the petitioners have not made out any exceptional case in this petition to be entertained and the decision of the Co-Ordinate Bench of this Court in the case of **B. Ganganna** as stated *supra* is squarely applicable to the present facts and the present petition needs to be disposed of in similar terms and hence, the following:

ORDER

- i. The Returning Officer shall count the votes cast in the elections held on 19.01.2025 to the Managing Committee of respondent No.6-Bank and shall announce the results.
- ii. Liberty is reserved to the petitioners or any aggrieved party to raise objections to the validity



of the electoral by filing an Election Petition under Section 70(2) of the KCS Act, 1959.

- iii. If any dispute is raised under the provisions of KCS Act, 1959 the authority under Section 70 of the KCS Act, 1959 shall examine all questions including the questions relating to the validity of the eligible and ineligible voters list and impact of the election to the Managing Committee of respondent No.6-Bank.
- iv. All contentions of the parties are kept open.
- v. This Court has not expressed merits and demerits on eligibility or ineligibility of the voters list.
- vi. With the said observations, the writ petition stands ***disposed of.***

Sd/-

JUSTICE K.S. HEMALEKHA

AT
List No.: 1 Sl No.: 24
CT:SNN