



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27<sup>TH</sup> DAY OF JUNE, 2024

PRESENT



THE HON'BLE MR N. V. ANJARIA, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE K V ARAVIND

**WRIT APPEAL NO. 280 OF 2024 (CS-EL/M)**

**BETWEEN:**

1. SRI C V MAHALINGAIAH  
SON OF LATE VENKATEGOWDA  
AGED ABOUT 47 YEARS  
PRESIDENT  
TUMKUR CO-OPERATIVE MILK  
PRODUCERS SOCIETIES UNION LTD.  
MALLASANDRA, TUMKUR TALUK  
TUMKUR DISTRICT - 572107
2. SRI. CHANDRASHEKAR  
SON OF LATE GANGEGOWDA  
AGED ABOUT 50 YEARS,  
DIRECTOR  
TUMKUR CO-OPERATIVE MILK  
PRODUCERS SOCIETIES UNION LTD.  
MALLASANDRA, TUMKUR TALUK  
TUMKUR DISTRICT - 572107
3. SRI. CHANNAMALLAPPA  
SON OF LATE EREMALLAPPA  
AGED 69 YEARS  
DIRECTOR  
TUMKUR CO-OPERATIVE MILK  
PRODUCERS SOCIETIES UNION LTD.  
MALLASANDRA, TUMKUR TALUK  
TUMKUR DISTRICT – 572107

...APPELLANTS

(BY SRI D.R.RAVISHANKAR, SENIOR ADVCOATE ALONG WITH  
SRI NAGARAJU, ADVOCATE)





AND:

1. THE STATE OF KARNATAKA  
BY THE DEPT. OF CO-OPERATION  
M.S.BUILDING  
DR. B.R. AMBEDKAR VEEDHI  
BANGALORE - 01  
REP. BY ITS PRINCIPAL SECRETARY
2. CO-OPERATIVE ELECTION COMMISSIONER  
CO-OPERATIVE ELECTION AUTHORITY  
3<sup>RD</sup> FLOOR, SHANTHINAGAR BUS STOP  
BANGALORE – 560 027
3. THE DEPUTY COMMISSIONER CUM  
DISTRICT FEDERAL CO-OPERATIVE  
ELECTION OFFICER  
TUMKUR CO-OPERATIVE MILK  
PRODUCERS SOCIETIES UNION LTD.  
MALLASANDRA  
TUMKUR TALUK  
TUMKUR DISTRICT - 572107
4. ASSISTANT COMMISSIONER  
TUMKUR DISTRICT CUM  
RETURNING OFFICER  
TUMKUR CO-OPERATIVE MILK  
PRODUCERS SOCIETIES UNION LTD.  
MALLASANDRA, TUMKUR TALUK  
TUMKUR DISTRICT - 572107
5. TUMKUR CO-OPERATIVE MILK  
PRODUCERS SOCIETIES UNION LTD  
MALLASANDRA, TUMKUR TALUK  
TUMKUR DISTRICT - 572107  
BY ITS CHIEF EXECUTIVE OFFICER
6. H.B. SHIVANANJAPPA  
SON OF BASVEGOWDA  
AGED ABOUT 73 YEARS  
DIRECTOR  
TUMKUR CO-OPERATIVE MILK  
PRODUCERS SOCIETIES UNION LTD.



MALLASANDRA, TUMKUR TALUK  
TUMKUR DISTRICT – 572107

...RESPONDENTS

(SMT.PRATHIMA HONNAPURA, ADDITIONAL ADVOCATE GENERAL  
A/W SMT.NILOUFER AKBAR, AGA FOR RESPONDENT NOS.1, 3 AND 4  
SRI A.C.BALARAJ, ADVOCATE FOR CAVATOR/RESPONDENT No.5)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDERS PASSED BY THE LEARNED SINGLE JUDGE DATED 22.01.2024 IN WP No. 24015/2024 AND CONSEQUENTLY ALLOW THE WRIT PETITION FILED BY THE APPELLANT OR PASS SUCH OTHER APPROPRIATE ORDERS AS THE FACTS AND CIRCUMSTANCES OF THE CASE WARRANTS IN THE ENDS OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, **CHIEF JUSTICE** DELIVERED THE FOLLOWING:

### **JUDGMENT**

Heard learned Senior Advocate Mr.D.R.Ravishankar assisted by learned advocate Mr.Nagaraju for the appellants, learned Additional Advocate General Smt.Prathima Honnapura with learned Additional Government Advocate Ms.Niloufer Akbar for respondent Nos.1, 3 and 4 and learned advocate Mr.A.C.Balaraj for respondent No.5.

2. The present appeal was directed against the order dated 22.01.2024 passed by learned Single Judge. The petition was disposed of with the following observations in paragraph 6 of the order,



“It is needless to say that if all the procedures contemplated are completed much before the intended date of election i.e. 04.07.2024, the Co-Operative Election Officer may also take necessary steps to complete the election as early as possible given the fact that the administrator is appointed to board of the Union.”

3. The dispute is related to holding of elections to the Board of respondent No.5-Tumkur Co-operative Milk Producers Societies Union Limited for the next term of five years from 2023 to 2028. It was stated by the petitioners in the petition that respondent No.5-Society was a secondary/federal co-operative society which had 1380 members of its primary co-operative societies. It was registered under the Karnataka Co-operative Societies Act, 1959 (hereinafter referred to as 'the Societies Act') and that the last elections were held for the term of 2018-2023. In view of expiry of the term, the elections had become due. The resolution was passed for conducting the elections and a representation was given to respondent No.2-Co-operative Election Commissioner for holding elections expeditiously and within time.

3.1 The petition came to be filed seeking direction against respondent Nos.2 to 4 to issue calendar of events to conduct the



elections of respondent No.5-Society and conclude the election process. The second prayer was to permit the existing Board of Management to continue and manage the affairs of the Society without subjecting the disqualification of petitioner No.1 either from holding the post of President as well as petitioner Nos.2 to 4 from holding the post of Directors on account of non-conduct of elections. In other words, the office bearers wanted to continue in the office till the time elections were held.

3.2 Section 28-A(4) of the Societies Act provided that subject to the provisions of Section 29-A and 39-A the term of office of the members of the Board shall be five years from the date of election and that they shall be deemed to have vacated office as such members on the date of completion of the term.

3.3 During the pendency of the appeal, learned Senior Advocate for the appellants produced Notification dated 13.03.2024 issued by the Government of Karnataka, whereby the term of the office of the members of the Board of the Co-operative Society came to be extended in view of the impending general elections to the Parliament.



3.4 It appears that the election programme was not notified. As submitted learned Additional Advocate General, it was due to the fact that the General Elections to the Parliament were being held in the country. The term of the Board members of the Society had expired at such juncture awaiting the fresh elections.

3.5 A development took place was that the State government issues Notification dated 13.03.2024 extending the term of office for the members whose tenure was over with expiry of the term. The Notification, however, came to be rescinded by the subsequent Notification dated 16.03.2024. The provision of Section 28-A(4) of the Societies Act is clear. Be that as it may, the matter rested there. The said development was noted in the orders dated 18.03.2024 and 08.04.2024. As recorded in the order dated 08.04.2024, learned Additional Advocate General was required to take instructions about holding of elections which were already due.

3.6 The proceedings of the appeal witnessed the following order dated 28.05.2024,

“On 08.04.2024, the following order was passed by the Court,

“On the previous date, in the order dated 18.03.2024, the Court had occasion to notice the



Notification dated 13.03.2024 issued by the Government of Karnataka whereby, the term of office of the members of the Co-operative Society was extended and further notification dated 16.03.2024 whereby the said earlier notification came to be rescinded.

In view of the above order passed, learned Additional Advocate General Ms. Prathima Honnapura shall take instructions about holding of elections which is already over due.

Stand over to 25.04.2024.

Learned Additional Advocate General shall come out with schedule of elections.”

In response and in compliance of the aforesaid order, when the appeal came up for consideration today, learned Additional Advocate General Mrs. Prathima Honnapura produced the schedule of dates in the nature of election programme for conducting of the elections to the Tumakuru District Milk Producers Co-operative Societies Union Mallasandra, Tumakuru Taluk, to submit that the election calendar is already set up.

Learned Senior advocate Mr. D.R.Ravishankar for the appellants seeks time to file rejoinder affidavit. Time is granted.

The appeal shall be listed on 30.05.2024, as requested.”

4. It was sought to be contended that several notices starting from 12.12.2023, 29.01.2024, 16.05.2024 and further till 10.11.2024 came to be given under Rule 13-D(2-A)(ii) of the Karnataka Co-operative Societies Rules, 1960 which deals with the preparation of the electoral rolls and calendar of events.



4.1 It was submitted that despite several notices, the calendar of events was not prepared and no election programme was issued. It was submitted that elections were not held, though the term had expired and that the elections were overdue.

4.2 Learned Senior Advocate argued that the term could not last any longer beyond the period of five years and that the office bearers had vacated the office by virtue of the operation of the statutory provision. It was vehemently contended, the action on the part of the respondent in not coming out with the timetable for election and not holding the election was not only illegal but deserved to be deprecated, for, a democratic institution like co-operative society was kept away from an elected body.

4.3 On the other hand, learned Additional Advocate General and learned Additional Government Advocate submitted that the above referred were not the multiple notices but, it showed the process of commencing preparation of list of voters and further that notices were sent to all in that regard. It was submitted that while the authorities were inclined to hold the elections at the earliest, what prevented them was the impending and intervening Parliamentary elections, which were slated to be held. The authorities could not





notify the programme immediately as the administrative machinery was engaged in the election work and it was not possible to hold elections of the Board simultaneously with the ongoing Parliamentary elections, it was contended.

4.4 As the ground advanced by the respondents for occurrence of delay in issuing the election programme was the impending and intervening Parliamentary elections, the court granted time and the appeal was adjourned. The authorities, however, required to come out with the election programme at the earliest. It was urged that the entire machinery were preoccupied in the Parliamentary elections and that the code of conduct was to expire on 06.06.2024.

4.5 In course of the hearing, learned Additional Advocate General pointed out that the election programme has already been notified by the competent authority.

5. The program as notified and now already underway is as under,



“Karnataka Cooperative Societies Rules 1960 Related to Tumakuru  
Disitrect Milk producers Cooperative Societies Union Mallasandra,  
Tumakuru Taluk

<b>Sl. No.</b>	<b>KCS Rules, 1960</b>	<b>Events</b>	<b>Dates</b>
1.	Rule 13-D(a)(ii)	A notice to ineligible members before 195 days of election date.	16.05.2024
2.	Rule 13-D(2a)(ii)	Last date of objections to be filed by notice received ineligible members.	31.05.2024
3.	Rule 13-D(2a)(iii)	CEO should submit objections received from the ineligible voters to the election Officer with all relevant records within 30 days from the date of notice.	14.06.2024
4.	Rule 13-D(2a)(v)	The Election Officer has to hear and dispose the objections filed by the ineligible voter within 30 to60 days from the date of submission of objections.	30.07.2024
5.	Section 20(iv)(a)(b)	Milk Union has to prepare Demand Collections and a Balance as on 31.03.2024.	30.07.2024
6.	Rule 13-D(S)(a)(b)	CEO shall prepare draft list of ineligible members or representative and delegates with right to vote, List of members whose repayment will follow due before the date fixed in the publication of final electoral roll list of defaulters, list of other members representatives and delegates, who are not eligible to vote at a general election indicating the reasons for ineligibility, submitting said list to the election office along with relevant books, records and documents and any other information as election officer may require at least 60 days before the date of election.	01.08.2024 to 31.08.2024
7.	Section 20(2)	Notice to defaulters.	31.08.2024
8.		Draft voters list submitted to Election Officer for verification	06.09.2024
9.	Rule 13-D(2)(a)	Draft Voter list publication.	16.09.2024
10.	Rule 13-D(3)(b)	Last date for payment of dues	14.10.2024
11.	Rule 13-D(3)(c)	Final voter list verification	15.10.2024 to 18.10.2024
12.	Rule 13-D(3)(d)	Final voters list publication	20.10.2024



5.1 The stages contemplated in the aforesaid time-table of election are in accordance with the Karnataka Co-operative Societies Rules, 1960. The time period which is required for considering the objections to the insertion of the names in the list of voters, for hearing and disposing of the objections, for draft voters list publication and the time gap between the draft list and final list of voters and the publication of final list, etc. are all statutorily fixed. The programme is accordingly notified. The date of polling is fixed to be 10.11.2024. After completion of all the statutory stages, the date of election of office bearers would be 24.11.2024.

5.2 A grievance was sought to be raised by the appellants that the election ought to have been held early and that the Court may direct the respondents to revise and reschedule the election programme and direct the authorities to come out with fresh programme to complete the elections as the term is already over and the elections are overdue. It is time that the holding of any election should book no delay and election, at whatever level of democratic institution, have to be conducted in time. However, in the present case, the co-operative election could not be held in time and timeline could not be immediately adhered to, because of



impending and intervening general elections to the Parliament. It was a legitimate reason. Pragmatism and flexibility are not alien aspects in deciding the election schedule, without sacrificing the higher democratic principle.

5.3 The election calendar has already been set and the process of election has commenced. The stages have started from the month of May-2024. The dates are fixed to provide the different stages as statutorily required. Any interjection by the court in the election programme, at this stage, would on the contrary unsettle the elections, which are already underway. The court would not tinker with and upset the election programme.

5.4 The Court would be always disinclined to interfere with the election process. When the timetable is also notified and the election schedule is declared, no further order is required in this election. Fixing the timetable for the election is ultimately in the domain of the election authorities.

5.5 The Parliamentary elections was a justifiable reason and a good ground for inability to adhere to the timeline, since the entire administrative staff and machinery were preoccupied and occupied



in the general elections. The due elections to the Board of the Society were inevitably delayed.

5.6 In the circumstances, the pedantic approval would not subserve the purpose. The court does not find that any serious irregularity committed in notifying the elections at a later stage.

6. For the aforesaid reasons and discussions, no case is made out to deal with the present appeal any further and no order needs to be passed.

7. The appeal is accordingly disposed of.

**Sd/-  
CHIEF JUSTICE**

**Sd/-  
JUDGE**