

**Case Name:-** Basvanthappa Basappa Hireraddi v. Registrar of Co-operative Societies

**Citation:-** 1986 SCC OnLine Kar 76

**Link:-** <http://www.sconline.com/DocumentLink/d7pAyOxq>

**Judgement:-** <https://share.google/IBr6HONJJjix4D7r>

### **Summary and Conclusion:-**

The background of Basvanthappa Basappa Hireraddi v. Registrar of Co-operative Societies (1987) centers on a constitutional challenge to the internal rules (bye-laws) governing the Karnataka State Co-operative Apex Bank Ltd.

### **Factual Context**

**The Petitioner:** Basvanthappa Basappa Hireraddi, a member/director associated with the bank.

**The Conflict:** The petitioner challenged an order dated September 12, 1985, issued by the Registrar of Co-operative Societies. This order had officially registered and approved Bye-law No. 14 of the Apex Bank's internal regulations.

**The Disputed Rule (Bye-law 14):** This bye-law stated that the term of office for elected members of the Board would be deemed to expire on the date of the Annual General Meeting (AGM) of the Bank, though they would continue in office until their successors were elected.

### **The Legal Dispute**

The petitioner sought to quash the Registrar's order, arguing that Bye-law 14 was ultra vires (beyond legal authority) because it conflicted with state law.

**Statutory Guarantee:** Under Section 28A(3) of the Karnataka Co-operative Societies Act, 1959, the term of office for a committee is strictly defined as three co-operative years.

**Petitioner's Argument:** The petitioner contended that by linking the expiry of the term to the date of the AGM, the bye-law could effectively shorten the three-year term guaranteed by the Act. They argued that if an AGM was held before the full three years concluded, the directors would be forced out early, which violated the Act.

**The Interplay of Rules:** The case required the Court to reconcile the Act, Rule 13(3) (which discusses the timing of elections), and the Bank's specific bye-laws regarding how individual directors represent their local districts.

### **Core Issue**

The High Court had to determine if a co-operative society has the power to align the end of a board's term with its annual meeting, or if the "three-year" rule in the state Act is an inflexible period that cannot be modified by any internal bye-law.

**In the case of Basvanthappa Basappa Hireraddi v. Registrar of Co-operative Societies (ILR 1987 KAR 257), the High Court of Karnataka reached the following conclusion:**

### **The Decision**

The Court dismissed the writ petition, ruling that the challenged bye-law of the Karnataka State Co-operative Apex Bank Ltd. was legally valid and not in conflict with state law.

### **Key Findings & Legal Reasoning**

The petitioner argued that Bye-law 14 was unconstitutional because it supposedly shortened the three-year term of office guaranteed by Section 28A(3) of the Karnataka Co-operative Societies Act, 1959. The Court rejected this based on several points:

**Whole vs. Individual Term:** The Court distinguished between the term of the Board of Directors as a whole and the term of an individual director.

Section 28A(3) and Rule 13(3) fix the tenure of the Committee/Board as a whole for three co-operative years.

Bye-law 14 simply clarified that this term expires on the date of the Annual General Meeting (AGM) of the Bank, while allowing directors to continue in office until their successors are elected.

**No Actual Curtailment:** The Court found that Bye-law 14 does not actually reduce the three-year period. It merely aligns the end of the term with the AGM. Even if an AGM is delayed beyond the three-year mark, the law provides for the board to continue until a new one is formed.

**Individual Contingencies:** Under Bye-law 16 and Rule 12B, an individual director's term might end early if they cease to be a member of the specific society they represent. The Court noted that an individual's tenure is always subject to their continued eligibility, which does not violate the statutory three-year "term of office" for the board as a collective body.

### **Final Order**

The Court held that Bye-law 14 was in total conformity with Section 28A of the Act and Rule 13(3) of the Rules. Consequently, there was no merit to the petitioner's claim that the bye-law was "ultra vires" (beyond legal authority).

**Case Name:-** Bharathi v. Registrar of Co-operative Societies, Bangalore

**Citation:-** 1989 SCC OnLine Kar 272

**Link:-** <http://www.sconline.com/DocumentLink/TfSDs2LD>

**Judgement:-** <https://share.google/PUMQZshq1pJHkAv3e>

### **Summary and Conclusion:-**

The background of Smt. Bharathi and others v. The Registrar of Co-operative Societies (1989) involves a long-standing dispute over membership rights and land allotment within a housing co-operative society.

### **Factual Context**

**The Petitioners:** A group of individuals who claimed to be members of the Binny Mills Labour Association House Building Co-operative Society Ltd. (the 4th Respondent).

**The Claim:** The petitioners alleged that they were admitted as "nominal members" under an amended version of the society's bye-laws. Based on this status, they were allotted residential sites, paid the required consideration, and had deeds of conveyance executed and registered in their favor. Some had even taken possession and built houses on these sites.

**The Conflict:** Problems arose when the society later executed "deeds of cancellation" to revoke the allotment of these sites. The petitioners then discovered that the specific amendments to the bye-laws (which reportedly allowed for their membership and site allotment) had never been formally registered by the Registrar.

## The Legal Dispute

The petitioners approached the High Court of Karnataka seeking three main forms of relief:-

**Registration of Bye-laws:** They sought a writ of mandamus to compel the Registrar to register an amendment passed by the Society's General Body way back on December 23, 1973. They argued that the Registrar had a statutory duty to register these changes.

**Prevention of Adverse Action:** They asked the Court to restrain the Society from acting against the 1973 amendments (which the Society was now effectively ignoring since they weren't registered).

**Quashing Cancellation Deeds:** They sought to throw out the deeds of cancellation that the Society had filed to take back the land.

## Core Issue

The case centered on the delay and administrative process of the Registrar. The Registrar had refused to register the 1973 amendments because the proposal was submitted over seven years late (in 1980). The Registrar argued that after such a long delay, the society needed to re-examine the entire proposal before it could be legalized.

The High Court had to decide if it could interfere in the Registrar's refusal and whether a writ petition was the correct legal tool to challenge a co-operative society's decision to cancel property deeds.

**In the case of Smt. Bharathi and others v. The Registrar of Co-operative Societies, Bangalore and others (1989 SCC OnLine Kar 272), the High Court of Karnataka reached the following conclusion:-**

## The Decision

The Court dismissed the writ petitions filed by the petitioners. No order as to costs was made.

## Key Findings & Legal Reasoning

**The Court rejected the three primary reliefs sought by the petitioners based on the following grounds:-**

**Refusal to Register Bye-laws:** The petitioners wanted the Court to compel the Registrar to register an amendment to the society's bye-laws (passed in 1973). The Court found that the Registrar had already exercised his statutory duty by refusing to register them because the proposal was delayed by over seven years and required re-examination. Since the Registrar had performed his duty (even if the result was a refusal), a writ of mandamus could not be issued. Furthermore, the Society had a right of appeal against that refusal which it had not used.

**Maintainability against the Society:** The petitioners sought directions against the 4th respondent (the Binny Mills Labour Association House Building Co-operative Society Ltd.). The Court ruled that a Co-operative Society is not a "State" or "other authority" under Article 12 of the Constitution. Therefore, a writ under Article 226 cannot be issued against a private co-operative society regarding its internal relationship with its members.

**Cancellation of Deeds:** The petitioners sought to quash "cancellation deeds" executed by the society regarding their sites. The Court held that Article 226 is not the appropriate remedy for this. Under Section 31 of the Specific Relief Act, specific provisions exist to seek the cancellation of instruments through a civil court. The Court noted that the dismissal of these petitions would not prevent the petitioners from establishing their rights or titles in an appropriate legal forum.

## Final Remark

The Court concluded that the petitioners were not entitled to any of the reliefs prayed for in the writ jurisdiction, effectively directing them toward civil or appellate remedies instead.