

**Case Name:** Bilinele Primary Agricultural Credit Co-operative Society Limited v. Assistant Registrar of Co-Operative Societies

**Citation:** 2014 SCC OnLine Kar 12613

**Link:** <http://www.sconline.com/DocumentLink/73M61456>

**Judgement:** <https://share.google/hD7COMLD7xozdrGDv>

### **Summary and conclusion:**

The case of Bilinele Primary Agricultural Credit Co-operative Society Limited v. The Assistant Registrar of Co-Operative Societies (2014) centers on a jurisdictional dispute regarding the power of an administrative authority to grant interim relief.

### **Factual Background**

**Parties Involved:** The Petitioner was the Bilinele Primary Agricultural Credit Co-operative Society Limited. The Respondents were the Assistant Registrar of Co-operative Societies (Puttur Sub-Division) and an employee of the Society.

**The Dispute:** The Society had initiated an inquiry against the 2nd Respondent (the employee) and placed her under suspension effective from October 6, 2014.

**Interim Order:** The employee challenged this suspension before the Assistant Registrar. On October 10, 2014, the Assistant Registrar passed an interim order staying the suspension and directing the Society to reinstate the employee pending the inquiry.

### **Legal Issues Raised**

The Petitioner-Society approached the High Court of Karnataka with two primary contentions:-

**Lack of Jurisdiction:** The Society argued that the Assistant Registrar had no legal power or jurisdiction to pass such an interim order staying a suspension.

**Procedural Irregularity:** They contended that the interim order was passed without providing the Society a fair hearing and that the 2nd Respondent had not even filed a reply to the original show-cause notice before seeking the stay.

### **The Current Status in Court**

The Society had already filed a memo before the Assistant Registrar seeking to vacate the interim stay. However, they alleged that the Assistant Registrar was not considering this memo and was instead repeatedly adjourning the matter while allowing the stay to remain in force.

The High Court of Karnataka, in the case of Bilinele Primary Agricultural Credit Co-operative Society Limited v. The Assistant Registrar of Co-Operative Societies and Another (2014), concluded the matter by providing a specific procedural direction rather than ruling on the underlying merits of the suspension.

### **The Conclusion**

The Court disposed of the writ petition with the following directions:-

**Direction to the Assistant Registrar:** The Assistant Registrar of Co-operative Societies was directed to take up the memo filed by the Petitioner-Society (which sought to vacate the interim stay order) and decide on it based on its merits.

**Hearings:** The decision must be made after hearing both parties involved.

**Timeline:** This process must be completed within one month from the date of receipt of a copy of the High Court's order.

**Cooperation:** Both parties were directed to cooperate and address their arguments specifically regarding the memo for vacating the stay on the next scheduled hearing date (November 17, 2014).

### **Core Reasoning**

The Court declined to enter into the controversy regarding the merits of the employee's suspension or the specific irregularities alleged. Instead, it focused on the procedural grievance: that the Petitioner-Society had already filed a memo to vacate the interim order, but it was not being considered while the interim order was repeatedly extended.

The Court noted that while Section 71(3) of the Karnataka Co-operative Societies Act, 1959 permits interlocutory orders in the interest of justice, such matters should be resolved expeditiously when challenged.

**Case Name:-** Bore Gowda v. Asst. Registrar of Co-operative Societies

**Citation:-** 1984 SCC OnLine Kar 157

**Link:-** <http://www.sconline.com/DocumentLink/Zcj92yPQ>

**Judgement:-** <https://share.google/9YD2VQmwYr1qdpUxw>

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

The background of Boregowda v. Asst. Registrar of Co-operative Societies (1984) involves a legal challenge regarding whether an elected official can be removed from office for a disqualification that existed before their election took place.

### **Factual Background**

**The Petitioner:** Boregowda was the elected President and Director of a Primary Land Development Bank and also served as the President of a District Co-operative Central Land Development Bank Union.

**The Disqualification Issue:** The Petitioner's son was an employee (a first-division clerk) in the same primary society where Boregowda held office.

**Legal Conflict:** Under Section 29C of the Karnataka Co-operative Societies Act, 1959, a person is disqualified from being a committee member if they have a relative in the service of the society.

**The Action Taken:** The Assistant Registrar issued a show-cause notice to the Petitioner, alleging he was disqualified due to his son's employment. Following this, the Assistant

Registrar passed an order on January 28, 1984, declaring the Petitioner disqualified and removing him from his posts.

### **The Legal Controversy**

The core of the dispute rested on when the disqualification occurred:

**Existing Fact:** It was undisputed that the Petitioner's son was already employed by the society before the Petitioner was ever elected to the committee.

**The Petitioner's Argument:** Boregowda argued that since the "disqualification" existed at the time of the election, the authorities could not use Section 29C/126A (administrative removal) to oust him. He contended the only way to remove him was through an election petition under Section 70.

**The Authority's Stance:** The Assistant Registrar and the Deputy Registrar (on appeal) maintained that the disqualification was "continuing" and that they had the power to remove him at any time under the Act.

### **The Immediate Fallout**

Following the Petitioner's removal, the authorities quickly conducted fresh elections to fill the "vacant" seats, resulting in the election of the 5th and 6th Respondents. This led Boregowda to approach the High Court to challenge both his removal and the subsequent elections of his replacements.

The High Court of Karnataka, in the case of Boregowda v. Asst. Registrar of Co-operative Societies (decided on August 9, 1984), concluded by allowing the Writ Petition and quashing the orders that had removed the Petitioner from his elected offices.

### **The Final Conclusion**

The Court issued the following specific orders:

**Quashing of Orders:** The order dated January 28, 1984, passed by the Assistant Registrar (disqualifying the Petitioner) and the appellate order dated February 7, 1984, passed by the Deputy Registrar are both quashed.

**Restoration of Office:** The Petitioner was ordered to be restored to the positions he held on the date the original impugned order was passed. Specifically, he was reinstated as:

President and Director of the 4th Respondent-Society.

President of the 3rd Respondent-Union.

**Removal of Successors:** The elections of Respondents 5 and 6, who were elected to fill the vacancies created by the Petitioner's removal, were set aside. They were directed to yield their offices to the Petitioner.

**Tenure:** The Petitioner is entitled to continue in these offices until the expiry of his term, subject to the provisions of the Act, Rules, and Bye-laws.

### **Core Legal Reasoning**

The Court's conclusion was based primarily on the interpretation of Sections 29C and 126A of the Karnataka Co-operative Societies Act, 1959:

**Pre-election vs. Post-election Disqualification:** The Court held that Section 29C and Section 126A apply only to post-election disqualifications (disqualifications that arise after a person has become a member of the committee).

**Improper Procedure:** Since the disqualification alleged against the Petitioner (his son being an employee of the society) existed at the time of the election, the only legal remedy was to challenge the election under Section 70 of the Act.

**Lack of Jurisdiction:** The Assistant Registrar did not have the jurisdiction to use Section 29C or 126A to remove a member for a "pre-existing" disqualification that should have been raised in an election dispute.

**Resignation of Relative:** The Court also noted that even if a disqualification existed, the subsequent resignation of the Petitioner's son (the relative in service) after the proceedings were initiated would not automatically "cure" a validly initiated disqualification, though this point became secondary once the jurisdictional issue was decided in favor of the Petitioner.