

**Case Name:** - Asha Ramesh Ambig v. Registrar of Coop. Societies

**Citation:** - 2025 SCC OnLine Kar 23247

**Link:** - <http://www.sconline.com/DocumentLink/9zy3ehO2>

**Judgement:** - <https://share.google/mTIQ2QB2JPiVyWa5e>

**Conclusion:** -

The background of Asha Ramesh Ambig and Others v. Registrar of Co-operative Societies centres on a dispute over the eligibility of members to vote in a cooperative society election.

### **1. The Election and Exclusion**

The petitioners were members of a Co-operative Society who intended to participate in the elections held on April 23, 2022. However, they were excluded from the Final Electoral List on the grounds that they were "defaulters" members who had failed to repay their dues to the society.

### **2. The Legal Violation (Rule 13-D)**

The primary grievance was that the Society and the Election Officer did not follow the mandatory procedure under Rule 13-D (2-A) of the Co-operative Societies Rules. Under this rule:

- A Draft Electoral List must be published.
- The Society must issue individual notices to members identified as defaulters, giving them a specific window (usually 30 days before the election) to repay their dues and regain their eligibility. The petitioners claimed they were never given this individual notice or a fair chance to clear their arrears before being struck from the list.

### **3. The Interim Measure**

While the case was pending, the Court had allowed the petitioners to cast their votes in the 2022 election, but directed that these votes be kept in a separate cover and the final result not be announced until the legal issue was resolved.

### **4. Arguments of the Parties**

**The Petitioners:** Argued that the lack of individual notice was a fatal procedural flaw that rendered their exclusion illegal.

**The Respondents (The Society/Registrar):** Admitted that there were "deficiencies" in how the final list was prepared but initially argued that the petitioners should seek a remedy under Section 70 of the Act (an election petition) rather than through a Writ Petition in the High Court.

### **5. Precedent Reliance**

The case relied heavily on a previous judgment by a Coordinate Bench of the Karnataka High Court (W.P. No. 8502/2022), which dealt with nearly identical facts. In that case, the Court held

that if the mandatory notice for clearing dues wasn't given, the exclusion of members was improper.

The conclusion of the case *Asha Ramesh Ambig and Others v. Registrar of Co-operative Societies and Others* (2025 SCC OnLine Kar 23247) focuses on procedural fairness in cooperative society elections.

**The High Court of Karnataka reached the following determination:**

### **1. Core Finding: Procedural Lapse**

The Court found that the respondents (the Society/Election authorities) failed to follow Rule 13-D (2-A) of the Co-operative Societies Rules. Specifically:

- The authorities admitted there were deficiencies in the finalization of the Electoral Roll.
- The petitioners were not issued individual notices regarding their exclusion or status as defaulters, which deprived them of the opportunity to file objections or clear their dues before the election.

### **2. The Mandate to the Returning Officer**

Because the petitioners had already cast their votes (which were being held but not counted/announced due to the dispute), the Court directed the Returning Officer to, Announce the election results forthwith, including the counting of the votes cast by the petitioners.

### **3. Final Conclusion & "Alternative Remedy"**

The Court did not rule on the underlying merits of whether the petitioners were actually "defaulters" or guilty of fraud. Instead, it concluded that, the writ petitions were disposed of with the direction to announce the results.

However, all parties were granted the liberty to challenge the result or raise disputes regarding fraud or disqualification under Section 70(2) of the Co-operative Societies Act (the statutory "alternative remedy").

All contentions remain "open," meaning they can be argued later in a proper election tribunal if the results are contested.

**Summary:** The petitioners won the immediate battle to have their votes counted and the results declared, but the legal validity of those votes can still be challenged in a specialized cooperative dispute forum later.

**Case Name:** - A. Chaithanya v. Additional Registrar of Co-Operative Societies (H and M)

**Citation:** - 2013 SCC OnLine Kar 10234

**Link:** - <http://www.sconline.com/DocumentLink/k9hq1O7o>

**Judgement:** - <https://share.google/HbOeUwGc7r2TbC6NO>

## **Conclusion: -**

The background of *A. Chaithanya v. The Additional Registrar of Co-operative Societies (2013)* concerns the legal protection of a director's seat during an ongoing disqualification appeal.

### **1. The Disqualification Order**

The petitioner, A. Chaithanya, served as a Director on the Managing Committee of a Co-operative Society. On April 26, 2013, the Joint Registrar of Co-operative Societies issued an order under Section 29-C of the Karnataka Co-operative Societies Act, 1959, disqualifying the petitioner from their post.

This disqualification was based on:

An inquiry into the society's affairs conducted under Section 64.

Subsequent findings and orders passed under Section 68.

### **2. The Statutory Appeal**

Aggrieved by the disqualification, the petitioner filed a statutory appeal (Appeal No. 5 of 2013-2014) before the Additional Registrar of Co-operative Societies. Crucially, the petitioner also filed an application for an interim stay to prevent the disqualification from being enforced while the appeal was being decided.

### **3. Procedural Delay and New Threats**

While the appeal was pending, the Additional Registrar did not pass any orders on the stay application. During this delay:

The Society issued a meeting notice on August 16, 2013.

The agenda for this meeting included filling the vacancy created by the petitioner's disqualification via co-option.

### **4. The "Rush" to the High Court**

The petitioner approached the High Court of Karnataka because they faced an imminent risk, if the Society filled the vacancy with a new Director, the petitioner's appeal would essentially become infructuous (useless). Even a victory in the appeal would be hollow if someone else had already taken over the seat.

### **5. Key Arguments**

**The Petitioner:** Argued that the underlying inquiry findings (Sections 64 and 68) had already been set aside in related proceedings for other employees, making their disqualification legally unsustainable.

**The State/Respondents:** Argued that since the matter was already before an appellate authority, the High Court should not intervene in the merits of the disqualification order itself.

### **Outcome Summary**

The High Court focused on the procedural unfairness of the delay. It directed the Additional Registrar to decide on the stay application within two weeks and strictly ordered that the vacancy must not be filled until the appeal was fully resolved.

The conclusion of the case *A. Chaithanya v. The Additional Registrar of Co-operative Societies and Others* (2013) is a procedural directive focused on protecting the petitioner's rights while an appeal is pending. The High Court of Karnataka did not rule on the merits of the disqualification itself but issued the following orders to ensure justice, Core Directives are: -

**Expedited Hearing:** The Court directed the Additional Registrar to dispose of the petitioner's application for an interim stay as quickly as possible.

**Strict Timeline:** If the stay application could not be considered on the next scheduled hearing date (August 31, 2013), it must be decided within two weeks from that date.

**Protection of Position:** Most importantly, the Court ordered that the vacancy created by the petitioner's disqualification shall not be filled up until the appeal is disposed of.

### **Summary of the Court's Reasoning**

The Court stepped in because the petitioner was caught in a "legal limbo." Although an appeal had been filed against the disqualification order, the Appellate Authority (the Additional Registrar) had not yet passed an order on the stay application. Meanwhile, the Co-operative Society was already moving to fill the petitioner's seat by co-option.

The Court concluded that if the seat were filled before the stay application was heard, the petitioner's appeal would be rendered infructuous (useless), as they would have no position to return to even if they won the case.

**Case Name:** - *A. Hanumantha Reddy v. Additional Registrar of Co-operative Societies (I&M)*

**Citation:** - 2006 SCC OnLine Kar 228

**Link:** - <http://www.sconline.com/DocumentLink/T35Ik3fM>

**Judgement:** - <https://share.google/RjJORwmo6IMQxaCMT>

**Conclusion:** -

### **Case Background: A. Hanumantha Reddy vs. Addl. Registrar of Co-op Societies**

The background of this case involves a dispute over pay protection when employees are moved from one cadre to a higher cadre within the same organization.

#### **1. The Parties and Original Positions**

The petitioners were employees of the Karnataka State Co-operative Agriculture and Rural Development Bank Ltd. Before the dispute, they held various positions such as Superintendent, Technical Supervisor, Land Development Officer, and Accounts Assistant.

#### **2. Recruitment to a Higher Cadre**

In September 1992, the Bank issued a notification inviting applications from internal candidates for the post of Law Officer. Crucially, the notification stated that the "present pay scale" of the employees would be protected upon appointment.

The petitioners, possessing the required law degrees, applied and were appointed as Law Officers in January 1993.

### **3. The Core Dispute: Pay Fixation**

When the Bank fixed the new pay scales for these Law Officers in April 1993, it only considered their Basic Pay. It specifically excluded the "Personal Pay" they had been receiving in their previous roles.

**The Impact:** Because their previous total pay (Basic + Personal) was higher than the new starting basic pay for Law Officers, the petitioners ended up earning less money in their new, higher-ranking positions than they did in their lower-ranking ones.

### **4. Legal Definition Conflict**

**The Bank argued that according to its Subsidiary Rules:**

"Pay" was defined as "monthly substantive pay."

"Personal Pay" was viewed as an additional grant to save an employee from loss of substantive pay due to revision or exceptional circumstances, and therefore was not part of the "pay scale" to be protected.

The petitioners contended that "pay" must be read harmoniously to include all emoluments, ensuring that a promotion or selection to a higher post does not lead to financial stagnation or loss.

### **5. Procedural History**

Before reaching the Karnataka High Court, the petitioners sought relief through other channels:

They first raised a dispute under Section 70 of the Karnataka Cooperative Societies Act, 1959.

The Additional Registrar of Cooperative Societies rejected their claim in 1999.

They appealed to the Karnataka Appellate Tribunal, which also rejected their plea in 2001.

Aggrieved by these rejections, the petitioners filed this Writ Petition in the High Court to quash those previous orders and secure their full pay protection.

The conclusion of the Karnataka High Court in *A. Hanumantha Reddy and Others vs. The Additional Registrar of Cooperative Societies (I&M) and Others* (2006) is that the respondent-Bank was legally bound to protect the total pay (Basic Pay + Personal Pay) of the employees upon their appointment to a higher post.

**The Court reached this conclusion based on several key findings:**

#### **1. Merging of Pay Components**

The Court held that the Bank must merge both basic pay and personal pay when fixing the new pay scale for the petitioners as Law Officers. There was no legal justification to exclude "personal pay," as doing so resulted in the employees drawing a lower salary in a higher cadre than what they were earning previously.

## **2. Pay Protection Principles**

Citing Supreme Court precedents (specifically *State Bank of India vs. K.P. Subbaiah*), the Court emphasized that:

The fundamental feature of pay fixation in a new scale is to ensure that total emoluments are not reduced.

It is "arbitrary" and "opposed to public policy" to expect an employee to work in a higher post with more responsibility while receiving less pay.

## **3. Violation of Representations**

The Court noted that the Bank's original notification (dated 03.09.1992) had assured candidates that their "present pay scale" would be protected. By later interpreting this as only "basic pay," the Bank deviated from its initial promise.

## **4. Final Orders**

The Court issued the following directions:

Quashed the previous orders from the Additional Registrar and the Karnataka Appellate Tribunal that had rejected the employees' claims.

Allowed the Writ Petition, directing the Bank to fix the petitioners' pay by merging their basic and personal pay drawn prior to their recruitment as Law Officers.

Granted consequential benefits, ensuring the petitioners receive any back pay or adjustments resulting from this corrected fixation.