

Case Name: - BM Rajanna v. Joint Registrar of Coop. Societies

Citation: - 2025 SCC OnLine Kar 3922

Link: - <http://www.sconline.com/DocumentLink/tlp5t0n9>

Judgement: - <https://share.google/xyeqOx7lYWwqfUls7>

Summary and Conclusion: -

Based on the court order from the Bengaluru Bench of the Karnataka High Court (W.P. No. 36522/2024), here is the background of the case involving Mr. B.M. Rajanna and others vs. The Joint Registrar of Co-operative Societies:

1. The Statutory Inquiry (Section 68)

The case originated from an inquiry conducted under Section 68 of the Karnataka Co-operative Societies (KCS) Act, 1959. This inquiry was focused on the functioning and financial dealings of the cooperative society where the petitioners (B.M. Rajanna and others) were likely office-bearers or members.

2. The Legal Challenge to the Inquiry

The petitioners were unhappy with the findings of the Inquiry Report. Consequently, they filed a formal appeal (DAP No. 23/2024-25) before the Additional Registrar of Co-operative Societies. Along with this appeal, they submitted an application for an interim stay to prevent any action from being taken based on that report until the appeal was decided.

3. Initiation of Surcharge Proceedings (Section 69)

While the petitioners' appeal against the inquiry report was still pending and their request for a stay had not yet been heard, the Joint Registrar (JRCS) initiated "Surcharge Proceedings" under Section 69 of the KCS Act.

What is Surcharge? Surcharge proceedings are used to recover money from persons who are found (via an inquiry or audit) to have caused financial loss to a society through negligence or misconduct.

4. The Conflict (Parallel Proceedings)

The petitioners approached the High Court with a specific grievance: They argued it was legally unfair for the Joint Registrar to rush ahead with recovery actions (surcharge) while the very report those actions were based on was being challenged in a higher administrative office. They contended that the Additional Registrar should have first decided on their stay application before the Joint Registrar started the recovery process.

5. The Resulting Writ Petition

The petitioners filed this Writ Petition asking the High Court to intervene and stop the surcharge proceedings. They argued that if the money was recovered now but the Inquiry Report was later found to be wrong in their appeal, they would suffer "irreparable injury."

The Decision

The Court partly allowed the Writ Petition. This is a favourable result for the petitioners because it provides them with temporary legal protection.

Key Directions from the Court

The Hon'ble Mr. Justice Suraj Govindaraj issued the following specific orders:

Conditional Pause: This stay remains in effect until the "Additional Registrar of Co-operative Societies" decides on the petitioners' pending application for an interim stay in their main appeal (DAP No. 23/2024-2025).

Expedited Action: The Court directed the Additional Registrar to consider the petitioners' interim application and pass necessary orders as quickly as possible.

Summary

The Court basically said: "You cannot proceed with the money recovery actions (surcharge) while the appeal against the original inquiry is still being reviewed." The petitioners successfully argued that it was unfair for one government department to demand money from them while another department hadn't yet decided if the underlying report against them was even valid. For now, the legal action against the petitioners is paused until their appeal is officially heard.

Case Name: - Bola Vyavasaya Seva Sahakara Sangha Niyamitha v. Assistant Registrar of Coop. Societies

Citation: - 2025 SCC OnLine Kar 15205

Link: - <http://www.scconline.com/DocumentLink/wN1se442>

Judgement:

https://www.scconline.com/print/J_2025_SCC_OnLine_Kar_15205_23090100380_revaeduin_20260323_142757_1_4.pdf

Summary and Conclusion:

Based on the court order from the Bengaluru Bench of the Karnataka High Court (W.P. No. 7832 of 2025), here is the background of the case involving Bola Vyavasaya Seva Sahakara Sangha Niyamitha:

1. The Vacancy (March 2023)

A vacancy was created in the Board of Directors of the cooperative society due to the unfortunate death of one of the members, Sri. Gopal. To fill this spot, a meeting was scheduled for March 27, 2023, to "co-opt" (appoint) a new Director.

2. The Meeting and the Vote

The society had a total of 14 Directors: 12 democratically elected and 2 "professional" Directors. At the meeting:

Thirteen Directors attended.

A resolution was proposed to co-opt Sri. Sunder Naikera as the new Director.

Six elected Directors opposed the resolution.

Five elected Directors supported it.

Two professional Directors also voted in favor.

Because the two professional Directors voted with the five elected ones, the resolution passed (7 votes to 6), and Sri. Sunder Naikera was co-opted as the 14th Director.

3. The Legal Challenge (Section 70)

One of the members (Respondent No. 2) challenged this appointment by filing a dispute under Section 70(2) of the Karnataka Co-operative Societies Act. They argued that professional Directors do not have the legal right to vote in an election or co-option of a director.

4. Decisions by Lower Authorities

The Assistant Registrar (ARCS): Ruled on March 15, 2024, that the appointment was invalid because professional Directors shouldn't have voted.

The Karnataka Appellate Tribunal (KAT): The society appealed the ARCS decision, but the Tribunal dismissed their appeal on February 1, 2024, agreeing that the voting process was illegal.

5. The Conflict over Bye-laws

The background of this case heavily involves a dispute over which Bye-law applies:

The Society's Argument: They relied on Bye-law 40(3), which they claimed allowed professional Directors to participate and vote in meetings.

The Opposing Argument: They pointed to Bye-law 41(10), which specifically prohibits professional Directors from voting in any election.

6. The Writ Petition

The society finally approached the High Court, asking it to quash the orders of the ARCS and the KAT, leading to the judgment you provided where the Court had to decide if co-opting a director counts as an "election."

The Decision

The Court dismissed the Writ Petition filed by Bola Vyavasaya Seva Sahakara Sangha Niyamitha. This means the petitioners lost their challenge, and the previous orders from the lower authorities (ARCS and KAT) remain in force.

Key Reasons for the Conclusion

The Hon'ble Mr. Justice Suraj Govindaraj provided the following rationale for dismissing the petition:

No Right to Vote for Professional Directors: The core issue was whether "professional Directors" could vote in a meeting to co-opt a new Director to fill a vacancy caused by death. The Court ruled that they cannot.

Democratic Principle: The Court noted that since the twelve regular Directors are democratically elected, only they should have the right to co-opt another Director. Professional Directors, who are appointed and not democratically elected, do not have this right.

Restriction on Voting: The Court found that any co-option of a director is essentially an "election of a director." Since there is a clear embargo (restriction) on professional Directors voting in elections of the Management Committee, that same restriction applies to the co-option process.

Validity of Lower Orders: The Court found no "infirmity" (legal error) in the orders passed by the Assistant Registrar of Co-operative Societies (ARCS) and the Karnataka

Appellate Tribunal (KAT), which had originally set aside the resolution to co-opt the new member.

Summary

The Court decided that the attempt to bring in a new Director (Sri. Sunder Naikera) was invalid because professional Directors were allowed to vote in that meeting. Since the law says professional Directors can't vote in elections, and co-opting a new person is a type of election, their votes shouldn't have counted. As a result, the High Court refused to change the earlier decisions and the petition was thrown out.