



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 23RD DAY OF MARCH, 2023



BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 16906 OF 2022 (CS-EL/M)
C/W

WRIT PETITION NO. 18949 OF 2022 (GM-KSR)

IN W.P.NO. 16906/2022
BETWEEN:

1. B L ADISHESH
S/OLATE B C LINGAIAH
AGED ABOUT 72 YEARS
R/AT D NO 3038/1
GOKULAM PART ROAD
V V MOHALLA
MYSORE - 570002
2. S YOGESH KUMAR
S/O LATE SIDDAPPA
AGED ABOUT 52 YEARS
R/AT NO 2603 KALIDASA ROAD
2ND CROSS, V V MOHALLA
MYSORE - 570002
3. DEVARAJ K
S/O KRISHNAPPA
AGED ABOUT 50 YEARS
R/AT NO 2588/2 2ND CROSS
KALIDASA ROAD, V V MOHALLA
MYSORE - 570002
4. A G MURALIDHARA
S/O R GOPALACHAR
NO 5937 LAKSHMINARASIMHA NILAYA
3RD MAIN ROAD, II STAGE
VIJAYANAGARA
OPP PUSHAKARANI SCHOOL
MYSORE - 570017

Digitally
signed by
POORNIMA
SHIVANNA
Location:
HIGH COURT
OF
KARNATAKA

...PETITIONERS

(BY SRI. SRINIVASA REDDY R V.,ADVOCATE)



AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF CO OPERATION
BY ITS SPECIAL OFFICER CUM
IN CHARGE JOINT SECRETARY
2. THE DISTRICT REGISTRAR OF SOCIETIES
CUM THE DEPUTY REGISTRAR OF
CO OPERATIVE SOCIETIES
MYSORE DISTRICT
MYSORE
3. THE ADMINISTRATIVE CUM ASSISTANT
REGISTRAR OF CO OPERATIVE SOCIETIES
VONTIKOPPAL CLUB (R)
MYSORE - 570002
4. THE VONTIKOPPAL CLUB
MYSORE - 570002
REP BY ITS ADMINISTRATOR
5. SRI V SRIDHAR
ELECTION OFFICE
VONTIKOPPAL CLUB
MYSORE - 570002
6. SRI V.S PRAKASH
S/O LATE V.S. SIDDAIAH
AGED ABOUT 62 YEARS
R/AT NO.18, 3RD STAGE, 'E'BLOCK,
NEAR BASAVARAJA CIRCLE,
VIJAYANAGARA,
MYSORE-570017.
7. SRI. MANJUNATH,
S/O M.K. GOPA RAJU,
AGED ABOUT 61 YEARS
R/AT NO.12/A, 1ST MAIN RAOD,
MYSORE-570002.
8. SRI. H.S. DATTA,
S/O LATE H.R. SUBBARAO,
AGED ABOUT 71 YEARS
R/AT NO.167, 1ST MAIN RAOD,
JAYALAKSHMI PURAM,



MYSORE-570012,
MEMBERSHIP NO.LMD-002.

9. SRI. B. NAGENDRA,
S/O LATE BOREGOWDA,
AGED ABOUT 60 YEARS,
R/AT NO.311, 13TH MAIN,
SARASWATHI PURAM,
MYSORE-570009.
MEMBERSHIP NO.SLMS-024.

...RESPONDENTS

(BY SRI. PRUTHVI WODIYAR, ADVOCATE FOR R6 TO R9;
SMT. A.R. SHARDAMBA, AGA FOR R1 TO R3;
R4, R5-SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI BY QUASHING FINAL LIST OF CANDIDATES TO CONTEST IN THE UPCOMING ELECTION FOR THE PERIOD FROM 2022-23 TO 2023-24 FOR THE FOURTH RESPONDENT CLUB DECLARED BY THE FIFTH RESPONDENT VIDE ANNEXURE-G AND ETC.

IN W.P.NO. 18949/2022
BETWEEN:

1. V S PRAKASH
S/O LATE V S SIDDDAIH
AGED 62 YEARS
R/AT NO 13, 3RD STAGE, E BLOCK
NEAR BASAVARAJA CIRCLE
VIJAYANAGARA
MEMBERSHIP NO SLNP 015
2. MANJUANATH
S/O M K GOPA RAJU
R/AT 12/A, 1ST MAIN, V V MOHALLA
MYSORE 570002
MEMBERSHIP NO MM52
3. DR SHIVALINGE GOWDA
S/O BILIGOWDA
AGED 59 YEARS
R/AT NO 53/A, 6TH CROSS
GOKULAM 1ST STAGE



MYOSRE 570003
MEMBERSHIP NO MS 084

4. B NAGENDRA
S/O BOREGOWDA
AGED 60 YEARS
R/AT 311, 13TH MAIN
SARASWATHI PURAM
MYSORE 570009
MEMBERSHIP NO SLMN 024
5. H S DATTA
S/O LATE H R SUBBARAO
AGED 71 YEARS
R/AT 167, 1ST MAIN ROAD
JAYALAKSHMI PURAM
MYSORE 570012
MEMBERSHIP NO LMD 002
6. N S VISHWANATH
S/O N M S SHIVANNA
AGED 58 YEARS
R/AT 971, 7TH MAIN ROAD
1ST STAGE, HEBBAL
MYSORE 570016
MEMBERSHIP NO M V 054
7. SOMASHEKAR H K
S/O KEMPEGOWDA
AGED 55 YEARS
RA/T 224, KESARE III STAGE
MYSORE 570007
MEMBERSHIP NO MS 181
8. JAVARE GOWDA
S/O CHIKKAPUTTE GOWDA
AGED 68 YEARS
R/AT 2711/2, II MAIN ROAD
V V MOHALLA
MYSORE 570002
MEMBERSHIP NO MS 023
9. D RAMA CHANDRA
S/O DASE GOWDA
AGED 63 YEARS
R/AT 442, MAIN ROAD
MANCHEGOWDA KOPPALL



MYSORE 570017
MEMBERSHIP NO MR 82

10. V S DHANDRAJ
S/O LATE SIDDAIAH
AGED 64 YEARS
R/A 2739, 6TH AMIN ORAD
VV MOHALLA
MYSORE 570002
MEMBERSHIP NO MD 022
11. HEATH SINGH
S/O CHAKI LAL SINGH
AGED 77 YEARS
R/AT PLOT NO M 6
INDUSTRIEAL ESTATE
YADVAGIRI
MYSORE 570020
MEMBERSHIP NO SLMH 002
12. SOMASHEKAR U B
S/O BORALINGA
AGED 63 YEARS
R/AT 2616, VALMIKI ROAD
VV MOHALLA
MYSORE 570003
MEMBERSHIP NO MP 42
13. PRASHANTH M N
S/O V S NAGARAJ
AGED 65 YEARS
R/AT 2616
VALMIKI ROAD, V V MOHALLA
MYSORE 570002
MEMBERSHIP NO MP 42
14. SANTOSH SINGH
S/O HEATH SINGH
AGED 40 YEARS
R/AT PLOT NO M6, INDSUTRIAL ESTAE
YADAVAGIRI
MYSORE-570020
MEMBERSHIP NO CMS 010
15. YASHWANTH N S
S/O SOMASHEKAR
AGED 33 YEARS



NO 2616, VALIMIKI ROAD
VV MOHALLA
MSYORE 02
MEMBERSHI9P NO CMY 003

16. PRADEEP KUMAR
N K HANUMANTHE GOWDA
AGED 56 YEARS
R/A NO 350, 4TH MAIN, 3RD CROSS
VIJAYNAGAR 1ST STAGE
MYSORE 570017
MEMBERSHIP NO MP 057

...PETITIONERS

(BY SRI. PRUTHVI WODEYAR, ADVOCATE)

AND:

1. THE STATE OF KARNATKA
DEPARTMENT OF CO OPERATIONS
M S BUILDNG
BANGALORE 01
REP BY UNDER SECRETARY
2. THE STATE OF KARNATAKA
DEPARTMENT OF CO OPERATION
M S BUILDDDING
BANGLAORE 01
REP BY ITS SPECIAL OFFICER AND
EX OFFICIO STATE JOINT SECRETARY
3. THE DISTRICT REGISTASRAR OF SOCIETIES
CUM THE DEPUTY REGISTRAR OF
CO OPERATIVE SOCIETIES
MYSORE DISTRICT
MYSORE 570002
4. THE ASSISTANT REGISTRAR
OF CO OPERATIVE SOCIETIES
MYSORE DISTRICT
MYSORE 570003
5. THE VONTIKOPPAL CLUB
NO 3000/1
1ST MAIN ROAD
VV MOHALLA
MYSORE 570002
REP BY ITS ADMINISTRATOR
REG IN SOCIETIES REGISTRATION ACT 1848



6. SRI V SRIDHAR
ELECTION OFFICER
VONTIKOPPAL CLUB
MYSORE 570002

...RESPONDENTS

(BY SMT. A.R. SHARADAMBA., AGA FOR R1 TO R4;
R5, R6 SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER WRIT OR DIRECTION QUASHING THE ORDER DATED 10.5.2022 PASSED BY THE 3RD RESPONDENT IN NO.DRM:C12:SECTION 25:ENQUIRY:2007-18, VIDE ANNEXURE-F AND ETC.

THESE WRIT PETITIONS, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. In WP No.16906/2022, the petitioner is before this

Court seeking for the following reliefs:

*a) Issue a writ in the nature of certiorari by quashing final list of candidates to contest in the upcoming election for the period from 2022-23 to 2023-24 for the fourth respondent club declared by the fifth respondent vide **Annexure-G**.*

b) Issue a writ of mandamus by directing the third respondent not to conduct elections to the new executive committee of the fourth respondent club as per the calendar of events dated 08-08-2022 and also to convene the general body meeting on 28-08-2022 in pursuance of the decision taken by the office bearers of the club on 27-07-2022.

c) Issue a writ of mandamus by directing the third respondent to convene the general body meeting and



also to hold elections to the new executive committee of the fourth respondent club for the period 2022-23 and 2023-24 as per the order No: SaE:65:CSR:2022, Bangalore, dated 28-07-2022 passed by the first respondent vide **Annexure-D**.

d) Issue any other appropriate writ, order of direction as this Hon'ble Court deems fit in the circumstances of the case, in the interest of justice and equity.

2. In WP No. 18949/2022, the petitioner is before this Court seeking for the following reliefs:

(i) **ISSUE** a writ of certiorari or any other writ or direction quashing the order dated 10.5.2022 passed by the 3rd respondent in No.DRM:C12:Section25:Enquiry:2007-18, Vide **Annexure-F**.

(ii) **ISSUE** a writ of certiorari or any other writ or direction quashing the order dated 28.7.2022 passed by the 2 respondent in No. SaE 65 CSR 2022, Vide **Annexure-J**.

(iii) **ISSUE** a writ of certiorari or any other writ or direction quashing the order dated 25.8.2022 passed by the 5th respondent in No.administrator: club:01:2022-2023, Vide **Annexure-N**.

(iv) **ISSUE** a writ of mandamus directing the 5th & 6th respondent to conduct the election as per the calendar of events vide Annexure-K under the supervision of the administrator from the stage where it is stopped i.e from the stage commencing from finalization of the list of contesting candidates.

(v) **GRANT** such other order or direction as deems fit to grant in the facts and circumstances of the case.



3. In WP No.16906/2022 the petitioners are members of respondent No.4-club they contended that the club and its office bearers i.e., respondents No.5 to 9 had after an administrator was appointed by the Government of Karnataka on 28.7.2022 issued a calendar events on 8.8.2022, accepted the nominations, issued the final list of the eligible candidates and had also issued final list of candidates for the post of office bearers which could not have been so done after an administrator had been appointed. It is in that background that the aforesaid reliefs would be sought for.
4. WP No.18949/2022 has been filed by the office bearers and one of the members of the club. Where initially, the appointment of the administrator was challenged but however has been given up, the remaining reliefs being as regards a direction to the club and the Election Officer to conduct the election as per the calendar of events already issued by the



erstwhile Management Committee under the supervision of the administrator appointed by the Government of Karnataka from the stage where it is till the completion thereof.

5. Sri. Srinivasa Reddy.R.V., learned counsel appearing for the petitioner in WP N.16906/2022 submits that once a administrator was appointed on 28.7.2022 vide a Government Order the functioning of the club was vested with the said administrator and office bearer of the said club could not take up any action as regards the administration of the club. More so as regards, the holding of elections to the various posts and/or the committees.

6. Sri.Pruthvi Wodeyar., learned counsel appearing for the erstwhile members who have filed WP No.18949/2022 submits that though the administrator was appointed on 28.7.2022, he did not take charge of the club until 12.8.2022 and it is in the intregum that on 27.7.2022 a meeting was



called for by the office bearers appearing the calling for election and fixing the dates of events.

7. The administrator having being appointed only for the reason that the club had not held its elections, the office bearers proceeded with the resolution passed on 27.7.2022 called for nomination and nominations were received on 15.8.2022, the last date for withdrawal being 16.8.2022, the same not having been withdrawn, same came to be finalized on 18.8.2022 and therefore he submits that the administrator so appointed could supervise the elections.

8. He further submits that the petitioner in WP No.16906/2022 have an alternative and efficacy remedy in the form of an election petition challenging the results of the election once the election are held. The process of election having commenced prior to the administrator taking charge of the affairs of the club, the said process ought not to be stopped.



Lastly, he submits that large amount of money which is expended for the purpose of holding of the election which would be rendered waste, if WP No.16906/2022 is allowed.

9. Learned AGA submits that the administrator having been appointed, all the administrative activities of the club vest with the administrator and it is for the administrator to do the needful and not for erstwhile office bearers.
10. Heard Sri. Srinivasa Reddy.R.V., learned counsel appearing for the petitioner and Sri.Pruthvi Wodeya., learned counsel appearing for respondents No.6 to 9. Perused papers.
11. The short question that would arise for consideration in the above matter is, whether the erstwhile office members can process a election after the appointment of an administrator merely because the administrator has not taken charge?



12. As can be seen from the above facts an administrator was appointed on 28.7.2022 on the ground that the club had not conducted its elections. The said communication has apparently been received by the office bearers and immediately thereafter on 8.8.2022 a calendar of events was circulated in pursuance of which all further action of calling for nomination, scrutiny of nomination papers and finalization of list of eligible candidates was made thereafter i.e., the calendar of the events having been issued on 8.8.2022 being subsequent to a resolution passed on 27.7.2022, being subsequent to the Government order dated 28.7.2022 the entire process of election was virtually commenced after the appointment of an administrator.

13. Though Sri.Pruthvi Wodeyar., learned counsel tries to contend that there was a meeting held on 27.7.2022 where an resolution was passed. The fact remains that action thereon was taken only after the



appointment of an administrator. Merely because the administrator actually took charge on 12.8.2022 cannot be a ground for the club to contend that the erstwhile office bearers would go ahead with the election process and/or management of the club. In fact a reading of the letter dated 15.8.2022 addressed by the administrator to the Registrar of Co-operative Societies produced by the erstwhile office bearers along with its impleading application at Annexure-R6(x) indicates that even though the administrator wanted to take charge, he was prevented from doing so and finally charge was handed over on 12.8.2022 by the erstwhile office bearers. It is a trite law no one can take advantage of his own wrongs. In the present matter the administrator having being appointed on 28.7.2022 he being prevented from taking charge until 12.8.2022 when in the meanwhile the erstwhile office bearers have issued a calendar of dates events and sought to finalize a list of the candidates



subsequently would indicates that it is on account of the failure on part of the erstwhile office bearers that the administrator could not take charge.

14. The other argument advanced by the Sri.Pruthvi Wodeyar., that the money spent on the election process and therefore the election should not be stopped is again an argument in futility in as much as the erstwhile office bearers want to take advantage of their own wrongs and now contend that since they committed those acts the amounts spent has to be saved. When the erstwhile office bearers could not have spent that money this contention is no longer available to them, they have sought to over come the order of the appointment of an administrator on 28.7.2022, all actions were taken pursuant thereto and money spent thereon was so done by them at their sole risk and peril and they cannot now contend that this money is to be saved.



15. It is for the club to recover the said money from the erstwhile office bearers since the said money has been spent by them without authorization or by way of self authorization contrary to the order of appointment of an administrator.
16. In view of the above, I pass the following;

ORDER

- i. WP No.16906/2022 is ***allowed.***
- ii. A certiorari is issued, the final list circulated by the erstwhile office bearers at Annexure-G is hereby quashed. Erstwhile office bearers are restrained from conducting election to the executive committee.
- iii. WP No.18949/2022 is ***dismissed.***
- iv. The administrator is however directed to carry out the election process in accordance with law and charter of the club within a period of three months from the date of receipt of copy of this order.

Sd/-
JUDGE

SR
List No.: 1 Sl No.: 23