

IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE 21ST DAY OF AUGUST, 2025 BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ WRIT PETITION NO. 10815 OF 2023 (CS-RES)

BETWEEN:

- 1. SRI. T. SHIVASHANKARAPPA S/O T. ESHWARAPPA, AGED ABOUT 56 YEARS, HIREJAMBUR, SHIKARIPUR TALUK, SHIMOGA DIST-577428.
- 2. SRI. B.M. MRUTYUNJAYA S/O MOHANAPPA, AGED ABOUT 42 YEARS, HIREJAMBURU VILLAGE, SHIKARIPURA TALUK, SHIMOGA-577428
- 3. SRI. J. MALTHESHAPPA S/O BHARMAYYA, AGED ABOUT 62 YEARS, HIREJAMBURU VILLAGE, SHIKARIPURA TALUK, SHIMOGA-577427
- 4. SRI. T. SHEKARAPPA S/O BASAVARAYAPPA, AGED ABOUT 69 YEARS, HIREJAMBURU VILLAGE, SHIKARIPURA TALUK, SHIMOGA-5774287
- 5. SRI. H. MAHESHAPPA S/O GURUSHANTAPPA, AGED ABOUT 56 YEARS, HIREJAMBURU VILLAGE, SHIKARIPURA TALUK, SHIMOGA-577427.





- 6. SRI. T. KIRAN KUMAR
 S/O SHIVAMURTHYGOWDA,
 AGED ABOUT 47 YEARS,
 HIREJAMBURU VILLAGE,
 SHIKARIPURA TALUK,
 SHIMOGA-577427.
- 7. SRI. HANUMANTHAPPA S/O RUDRAPPA, AGED ABOUT 56 YEARS, HIREJAMBURU VILLAGE, SHIKARIPURA TALUK, SHIMOGA-577427.
- 8. SRI. M. NAGARAJ S/O CHANDRAPPA, AGED ABOUT 48 YEARS, HIREJAMBURU VILLAGE, SHIKARIPURA TALUK, SHIMOGA-577427.
- 9. SRI. S. OMKARAPPA S/O SHIVAPPA, AGED ABOUT 44 YEARS, HIREJAMBURU VILLAGE, SHIKARIPURA TALUK, SHIMOGA-577427.
- 10. SRI. HANUMANTHAPPA KASAMBI S/O HANUMANTHAPPA, AGED ABOUT 52 YEARS, HIREJAMBURU VILLAGE, SHIKARIPURA TALUK, SHIMOGA-577427.
- 11. SRI. HIRIYAKSHAMMA W/O GANESHAPPA, AGED ABOUT 56 YEARS, HIREJAMBURU VILLAGE, SHIKARIPURA TALUK, SHIMOGA-577427.
- 12. SRI. ANUSUYAMMA W/O SHIVAPPA,

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AGED ABOUT 60 YEARS, HIREJAMBURU VILLAGE, SHIKARIPURA TALUK, SHIMOGA-577427.

13. SRI. B. JAYAPPA S/O HANUMANTHAPPA, AGED ABOUT 65 YEARS, HIREJAMBURU VILLAGE, SHIKARIPURA TALUK, SHIMOGA-577427.

...PETITIONERS

(BY SRI. VARUN J. PATIL, ADVOCATE FOR SRI. MAHAMAD TAHIR A., ADVOCATE)

AND:

- 1. THE STATE OF KARNATAKA
 DEPARTMENT OF CO-OPERATION,
 VIDHANA SOUDHA,
 BANGALORE-560001
 REPRESENTED BY ITS
 PRINCIPAL SECRETARY
- THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES, SHIMOGA, SHIMOGA DISTRICT-577201
- 3. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES, SAGAR SUB DIVISION, JOSEPH NAGAR, 1ST STAGE, SAGAR, SHIMOGA DISTRICT-577401
- SRI. HARISH N.D.
 S/O H.D. NAGAPPA,
 AGED ABOUT 45 YEARS,
 MUCHADDI POST,
 SHIKARIPUR TALUK,
 SHIMOGA DISTRICT-577450
- 5. THE SHIMOGA DAVENGERE AND CHITRADURGA DISTRICT CO-OPERATIVE MILK PRODUCERS UNION, SHIMOGA-577418, REPRESENTED BY ITS MD



6. THE HIREJAMBUR MPCS
HIREJAMBUR POST,
SHIKARIPUR TALUK,
SHIMOGA DIST.,
REP. BY ITS SECRETARY

...RESPONDENTS

(BY SRI. S.R.KHAMROZ KHAN, ADDITIONAL GOVERNMENT ADVOCATE FOR RESPONDENT NOS.1 TO 3; SRI. DAYANAND S. PATIL, ADVOCATE FOR RESPONDENT NO.5; NOTICE SERVED ON RESPONDENT NOS.4 AND 6)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS AND QUASH THE IMPUGNED ORDER DATED 17.05.2023 IN APPEAL NO.DRS/APL/02/2022-23 PASSED BY RESPONDENT NO.2 VIDE ANNEXURE-H1.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL ORDER

The petitioners have challenged an order dated 17.05.2023 passed by the respondent No.2 in appeal No.DRS/APL/02/2022-23.

2. The facts of the case in brief are that the petitioners were disqualified under Section 29C of the Karnataka Cooperative Societies Act, 1959 (henceforth referred to as 'the Act, 1959' for short). They approached this Court in



WP.No.233/2022 and connected petitions, which were allowed in terms of an order dated 28.04.2022. A writ appeal No.420/2022 was filed there against and the Division bench of this Court allowed the appeal and directed the petitioners to avail the alternate remedy of an appeal before the concerned Consequent thereto, the petitioners appellate authority. approached the respondent No.2 in appeal No.DRS/APL/02/2022-23 and sought an interim stay of the order of disqualification. The said application for stay was rejected, which was then challenged before this Court in WP.No.21428/2022, which was allowed in terms of an order dated 06.12.2022, which was thereafter sought to be reviewed in RP.No.20/2023. This Court reviewed the order dated 06.12.2022 in WP.No.21428/2022 and extended the interim order granted till the disposed of appeal before the respondent No.2, who was directed to conclude the proceedings within a period of three months from the date of receipt of a copy of the order in RP.No.20/2023. The respondent No.2 held proceedings and disposed off the appeal in terms of the impugned order. The petitioners are therefore before this Court, challenging the said order.



- 3. The learned counsel for the petitioners primarily contended that the petitioners were not heard and the impugned order was passed behind their back. He contends that the respondent No.2 held proceedings during the Court vacation and therefore, the petitioners were not represented before the respondent No.2. He therefore prays that an opportunity be granted to the petitioners to appear before the respondent No.2 and contest the appeal on merits.
- 4. The learned counsel for the respondent No.5 submits that the petitioners have kept the litigation alive for over five years by approaching one or the other Court and they are not allowing the finalization of the proceedings under Section 29C of the Act, 1959. He therefore contends that no indulgence be shown to the petitioners in this writ petition.
- 5. The learned Additional Government Advocate also reiterated the above contentions and submitted that the petitioners have been unduly delaying the proceedings by filing one or the other proceedings. Beside this, he contends that the petitioners are re-elected for the subsequent term and therefore, their deliberate delay of the litigation is for obvious



reasons, namely to continue in management of the respondent No.5. He therefore submits that the impugned order does not warrant any interference.

- 6. I have considered the submission of the learned counsel for the petitioner and the learned counsel for the respondent No.5 and learned Additional Government Advocate.
- 7. A perusal of the impugned order shows that the respondent No.2 had considered the appeal on merits and had disposed it off. It also appears that the petitioners were not represented in the appeal. It appears from the record that the proceedings were taken up by the respondent No.2 on 28.04.2023 on which day the appellants and their advocates were absent and thereafter the appeal was listed on 05.05.2023, on which day the petitioners did not appear and the case was then posted to 12.05.2023 on which day too, the petitioner did not appear and thereafter it was adjourned to 15.05.2023 on which day also the petitioner did not appear and the impugned order was passed on 17.05.2023. This was indeed a mistake on the part of the petitioners and they cannot blame the respondent No.2 for their default. Be that as it may,



since the impugned order was passed without hearing the petitioners, it is appropriate to grant an opportunity to the petitioners to appear before the respondent No.2 and submit their arguments.

8. In view of the above, I pass the following order:

ORDER

- i. The petition is **allowed-in-part**.
- ii. The impugned order passed by the respondent No.2 is set aside subject to payment of a cost of Rs.50,000/- (Rupees Fifty Thousand only), payable to 'Sri Jayadeva Institute of Cardiovascular Sciences and Research,' Jayanagar 9th Block, Bangalore 560 069, within one week from today.
- iii. The petitioners shall appear before the respondent No.2 on 30.08.2025. The respondent No.2 shall as far as possible dispose off the appeal within a period of one week thereafter.
- iv. It is made clear that if the petitioners do not deposit the cost as ordered or does not co-



operate in disposal of the appeal, the respondent No.2 shall reinstate the order dated 17.05.2023.

v. Till the disposal of the proceedings before the respondent No.2, the disqualification of the petitioners shall remain stayed.

Sd/-(R. NATARAJ) JUDGE

BKN

List No.: 1 SI No.: 62