

Umesh Shivappa Ambi And Ors. vs Angadi Shekara Basappa And Ors. on 6 March, 1998

Equivalent citations: AIR1999SC1566, JT1998(5)SC347, (1998)4SCC529, AIR 1999 SUPREME COURT 1566, 1998 AIR SCW 3950, (1998) 5 JT 347 (SC), 1998 (4) SCC 529, 1998 (2) ALL CJ 1005, 1998 (5) JT 347, 1998 ALL CJ 2 1005, (1998) 9 SUPREME 175

Bench: Sujata V. Manohar, S. Rajendra Babu

ORDER

1. Leave granted.

2. Election for 11 Directors of Respondent 3 Cooperative Bank (sic Society) for the years 1997-98 to 1999-2000 was conducted. The election results were declared on 23-9-1997. Since there was no contest, the appellants who were the candidates, were declared elected. The first respondent had also filed his nomination paper which was earlier rejected. Thereafter, the first respondent filed a writ petition before the Karnataka High Court challenging the rejection of his nomination paper.

3. The learned Single Judge dismissed the writ petition holding that the proper remedy for the first respondent was to file an election petition under Section 70 of the Karnataka Cooperative Societies Act, 1959. In appeal, however, the Division Bench has set aside the order of the learned Single Judge and has held that the nomination of the first respondent was wrongly rejected. It has further directed that a fresh calendar of events be published for holding an election to the posts of 11 Directors of the respondent Cooperative Society.

4. It is now well settled that once an election is over, the aggrieved candidate will have to pursue his remedy in accordance with the provisions of law and this (sic High) Court will not ordinarily interfere with the elections under Article 226 of the Constitution. (See in this connection para 3 in K.K. Shrivastava v. Bhupendra Kumar Jain .) The Court will not ordinarily interfere where there is an appropriate or equally efficacious remedy available, particularly in relation to election disputes. In the present case, under Section 70(2)(C) of the Karnataka Cooperative Societies Act, 1959 any dispute arising in connection with the election of a President, Vice-President, Chairman, Vice-Chairman, Secretary, Treasurer or member of Committee of the Society has to be referred to the Registrar by raising a dispute before him. The Registrar is required to decide this in accordance with law.

5. This was, therefore, not a fit case for intervention under Article 226. Hence, the impugned judgment is set aside and the order of the learned Single Judge is restored. The period of 6 months prescribed in the order of the learned Single Judge for the decision of the Registrar will run from the date of the raising of the dispute before him.

6. The appeal is allowed accordingly.