



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 7TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 1779 OF 2024 (GM-KSR)

BETWEEN:

MRS ANITHA PRASAD
W/O DR J PRASAD
AGED ABOUT 55 YEARS,
R/AT NO.72, OPP BWSSB
NANDIDURGA ROAD
BENSON TOWN BANGALORE - 560046.

...APPELLANT

(BY SRI. M.R. RAJAGOPAL, SENIOR ADVOCATE FOR
SRI. H N BASAVARAJU.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECERTARY
DEPARTMENT OF COOPERATIVE SOCIETIES
MS BUILDING
BANGALORE - 560001.
2. THE DEPUTY REGISTRAR
DEPARTMENT OF COOPERATIVE SOCIETIES
NO.1, ALI ASKAR ROAD
BANGALORE - 560001.
3. THE ASSISTANT REGISTRAR /

Digitally signed
by NIRMALA
DEVI

Location: High
Court of
Karnataka



ADMINISTRATOR
DEPUTY REGISTRARS OFFICE
NO.1, ALI ASKAR ROAD
BANGALORE - 560001.

4. MRS. KAVITHA SARVESH
D/O LATE J P SARVESH
AGED ABOUT 53 YEARS
R/AT 24/B, 1ST CROSS, 1ST BLOCK,
ASHWATHNAGAR, RMV 2ND STAGE,
ARAMANE ROAD,
BANGALORE - 560094.
5. UDAY VIDYA KENDRA
A REGISTERED SOCIETY
HAVING ITS REGISTERED OFFICE
AT NO.3, 3RD A CROSS,
BHUVANESHWARI NAGAR
SULTAN PALYA, R T NAGAR POST
BANGALORE - 560032
REPRESENTED BY ITS SECRETARY
SMT. KAMALA BAI SARVESH

...RESPONDENTS

(BY SRI.K.S. HARISH, GA FOR R1 TO R3
SMT. SIRI R, ADVOCATE FOR R4
SMT. RESHMA THAMMAIAH, ADVOCATE FOR C/R5)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER
PASSED BY LEARNED SINGLE JUDGE DATED 25/09/2024 IN
WP NO.20332/2018 AND ETC.

THIS APPEAL, COMING ON FOR PRELIMINARY
HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN
AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA



ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE C.M. POONACHA)

1. The present appeal is filed impugning an order dated 25.09.2024 (impugned order). Vide the impugned order, the learned Single Judge has disposed of the subject writ petition (being WP No.20332/2018) along with a batch of other connected writ petitions.

2. The subject writ petition was filed by respondent No.5 - society (the writ petitioner), wherein the appellant (Mrs Anitha Prasad) was arrayed as respondent No.4. The subject writ petition was filed impugning an order dated 04.05.2018 passed by respondent No.1-State appointing an Administrator to writ petitioner-society; enquiry report dated 08.01.2018. The writ petition was subsequently amended to also include the orders dated 07.12.2018 and 22.04.2019 extending the appointment of the Administrator.

3. The relevant facts in a nutshell leading to the present appeal are that the writ petitioner - society was registered under the provisions of the Karnataka Societies Registration Act, 1960 (**Act**) for the purpose of providing education and training programme to



the eligible students in the fields of Arts, Commerce, Engineering, Law, Pharmacy, etc. The present dispute is with respect of the affairs of one Gowtham College of Pharmacy, which is one of the institutions run by the writ petitioner - society. It appears that there are various disputes between the members and the managing committee of the society, wherein the appellant had lodged various complaints with the District Registrar of Cooperative Societies. Taking note of the allegations made in the complaint, the District Registrar of Cooperative Societies initiated proceedings under Section 25(1) of the Act invoking his *suo motu* powers and appointed an enquiry officer to conduct an enquiry. Accordingly, an enquiry report dated 08.01.2018 was submitted. The District Registrar by communication dated 08.01.2018 addressed to respondent No.1 - State recommended for appointment of an Administrator in terms of Section 27A of the Act. Accordingly, the State Government vide order dated 04.05.2018 appointed an Administrator for a period of six months. The subject writ petition was filed and the learned Single Judge of this Court vide order dated 10.05.2018 stayed the order dated 04.05.2018 appointing an Administrator.



4. It is pertinent to note that Section 27A of the Act stipulates an Administrator to be appointed for a period of six months, which could be extendable for a maximum period of four years.

5. Having regard to the nature of disputes between the parties, various other writ petitions were filed, which were clubbed together and decided vide the impugned order dated 25.09.2024. The writ petitioner had assailed the initiation of the enquiry on the ground that invocation of *suo motu* powers under Section 25(1) of the Act was improper. It is relevant to notice Section 25(1) of the Act of 1960, which reads as under:

25. Enquiry by the Registrar, etc.- (1) The Registrar may on his own motion and shall on the application of the majority of the members of the governing body or of not less than one-third of the members of the society, hold an enquiry or direct some person authorised by him by order in writing in accordance with the rules made in this behalf to hold an enquiry into the constitution, working and financial condition of a registered society.

6. The learned Single Judge noticed that the appellant, who was also an office bearer of the managing committee holding the post of Treasurer, had made the complaints, on the basis of



which, the District Register exercised *suo motu* powers to initiate an enquiry which could not be sustained. Further the learned Single Judge also found the exercise of *suo motu* powers by the District Registrar was improper. The relevant findings of the learned Single Judge in this regard are as under:

19. No doubt, the source of information could be by any means including information through any member of a society. Such information requires to be purely and simply in the interest of the Society concerned and it is not tainted with any personal/vested interest of such member who is providing such information. It is this aspect of the matter which also shall form part of consideration and subjective satisfaction by the Registrar before exercising his suo-muto powers. In other words, if the Registrar finds that such information is brought by a member, who otherwise has had a dispute with the Society concerned, it is necessary that before exercising his suo-muto power the Registrar shall satisfy himself that such complaint/information is not given to prompt him to initiate the suo-muto proceedings with malafide intentions of achieving ulterior motives by such member. Lest, the same would amount to misuse and abuse of the statutory powers. This is also for the reason that the Registrar is not legally obligated to initiate a suo-muto proceedings even on a mere request by a member of a Society, while he is under a statutory obligation to hold an enquiry into the affairs of the Society, if such request is made by filing an application by the majority of the members of the governing body or by not less than 1/3rd members of the Society. Suo-muto power is thus a special privilege and a power statutorily vested with the Registrar to be used sparingly and with required



circumspection ensuring that the same is not misused detriment interest of the Society concerned.

20. The averments made in the W.P.No.20332/2018, would indicate that the dispute has emanated between one Kavitha Sarvesh the Chairmen of the petitioner-Society and her younger sister Smt.Anitha Prasad/respondent No.4 wherein there were certain allegations against said Smt.Anitha Prasad/respondent No.4 of she indulging in mal-practices such as she allegedly allowing the students to take up the examination though they were not eligible for extraneous consideration and acting against the interest of Society resulting in show cause notice having been issued to her on 28.10.2017, and reply dated 02.11.2017 having been submitted by said Smt.Anitha Prasad/respondent No.4.

7. It is clear and forthcoming from the aforementioned findings that the complaints by the appellant emanated from a personal dispute with her sister, who was the Chairman of the society. Further, the order dated 11.12.2017 merely refers to the complaints received and the orders for enquiry. There is no material on record to indicate that the District Registrar had independently applied his mind and exercised his *suo motu* power.

8. In the given circumstances, no fault could be found with the order of the learned Single Judge quashing the order dated 11.12.2017 initiating the enquiry and the consequential enquiry report.



9. The action of the State Government in appointing an Administrator was also called in question in the writ petition. In this context, it is pertinent to notice Section 27A of the Act of 1960, which reads as under:

27-A. Appointment of Administrator.-Notwithstanding anything in this Act.-(1)(a) where any society on account of the pendency of litigation or otherwise has not held or is unable to hold the annual general meeting; or

(b)where the term of office of the members of the governing body of a society has expired and a new governing body has not for any reason been constituted; or

(c)where on a report made by the Registrar or otherwise, on enquiry, the State Government considers it necessary in public interest so to do, the State Government may, by order published in the official Gazette, appoint an Administrator for such society for such period, not exceeding six months, as may be specified in the order, to manage the affairs of the society:

Provided that for reasons to be recorded in writing, the State Government may, by like order, extend either prospectively or retrospectively, the said period by any further periods not exceeding six months at a time, so however subject to the provisions of clause (5), the aggregate period shall not extend beyond [four years];

(2)the expenditure incurred by the State Government towards the salary and allowances of the Administrator



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shall be paid to the State Government from out of the funds of the society;

(3) on the appointment of the Administrator under clause (1) and during the period of such appointment the governing body of the society shall cease to exercise any powers and perform and discharge any functions or duties conferred or imposed on it by this Act, or its memorandum of association or the rules and regulations or any other law and subject to any directions which the State Government, may from time to time issue, all such functions or duties shall be performed or discharged by the Administrator;

(4) the Administrator shall, before the expiry of the period of his appointment take necessary action to convene the general body meeting of the society and hold elections for the constitution of the governing body;

5) if the Administrator is not, for reasons beyond his control, able to convene the general body meeting or in spite of such meeting being convened, the general body fails to elect the governing body, the Administrator shall forthwith send a report to the State Government, who may pass such orders as are considered necessary, either extending the period of appointment of the Administrator for a further period or if satisfied that public interest so requires, for the dissolution of the society;

(5A) the State Government may, if it thinks fit, appoint an Advisory Council to advise and assist the Administrator appointed under sub-section and (1) in the exercise of the powers performance and discharge of the duties and functions conferred or imposed on him under this Act. The members of the Advisory Council shall hold office during the pleasure of the State Government.

(6) where an order of dissolution is passed under clause (5), the assets of the society shall vest in and the liabilities shall devolve on the State Government.



10. It is pertinent to note that the State Government is required to conduct an enquiry and exercise the power of appointment of an Administrator "in public interest". In the present case, merely on the enquiry report submitted, the Administrator has been appointed. In this context, it is pertinent to notice the relevant findings of the learned Single Judge, which reads as under:

23. Even if the impugned order dated 04.05.2018 has to be read independently, there is no consideration of the involvement of public interest, if any in the matter by the respondent-State Government justifying the appointment of the Administrator. Except mentioning provisions of Section 27-A of the Act, 1960 at page No.2, unnumbered paragraph No.1, the only consideration extracted therein which again relates to the complaint given by the Smt.Anitha Prasad/respondent No.4 regarding the alleged financial mismanagement. That cannot be construed as the basis for the State Government to have found it necessary "in the interest of public" to appoint an Administrator particularly in the absence of any enquiry having been conducted by the respondent-State Government in this regard. The complaints so filed by Smt.Anitha Prasad/respondent No.4 resulted in initiation of so called "suo-moto" proceedings by the respondent-District Registrar. Initiation of such proceedings, albeit irregularly, have different consequence under the Act, 1960. Admittedly no proceedings under Section 25 of the Act, 1960 have been conducted or concluded in the manner provided under Section 25 of the Act, 1960 except and hastened order/communication dated 08.11.2018 as per Annexure-M in W.P.No.20332/2018, which is not in exercise of any power under Section 27-A of the Act, 1960. For the said reasons, this Court is of the considered view



that Annexure-N, the Order dated 04.05.2018 not being traceable purely and simply to exercise of its power under any of the clauses (a), (b) and (c) of the sub- Section (1) of section 27-A of the Act, 1960. It is necessary also to note that as rightly contended by the learned Senior Counsel for the petitioner, no grounds are made out in the impugned order justifying existence of any circumstances contemplated under clause (c) of sub-Section (1) of section 27-A of the Act, 1960 which was only possible circumstances justifying appointment of an Administrator. As such, same requires to be set-aside.

11. It is clear that without any public interest and merely relying on the enquiry report submitted, the Administrator has been appointed, which has been set aside by the learned Single Judge. We find no reason to interfere with the said finding of the learned Single Judge in setting aside the appointment of the Administrator.

12. It is also pertinent to note that the learned Single Judge of this Court by order dated 10.05.2018 had stayed the order dated 04.05.2018 appointing an Administrator, which order was extended from time to time. The learned Single Judge has in detail considered the various interim orders passed in the writ petitions and allowed the subject writ petition.

13. Although, it is the vehement contention of the learned counsel for the appellant that the holding of the enquiry, the



appointment of the Administrator and all the actions taken by the Administrator are just and proper, we find no reason to interfere with the decision of the learned Single Judge.

14. In view of the above, the present appeal is dismissed. We however, clarify that dismissal of the present appeal would not imply that an FIR or any other proceedings are required to be quashed in view of this order. Needless to state that if any allegation is made in the FIR and the investigation supports framing of charges, the said proceeding will have to be considered on its own merits.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

ND/BS
List No.: 1 Sl No.: 20