

**WA No. 1811 of 2025
C/W WA No. 1816 of 2025
WA No. 1888 of 2025
AND 1 OTHER**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF MARCH, 2026



PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

WRIT APPEAL NO. 1811 OF 2025 (CS-EL/M)

C/W

WRIT APPEAL NO. 1816 OF 2025 (CS-EL/M)

WRIT APPEAL NO. 1888 OF 2025 (CS-EL/M)

WRIT APPEAL NO. 1892 OF 2025 (CS-EL/M)

IN W.A. No. 1811/2025

BETWEEN:

1. BALLENAHALLI MILK PRODUCERS
CO-OPERATIVE SOCIETY LTD.
BALLENAHALLI, PAVAGADA TALUK
TUMKUR DISTRICT
REG. UNDER KARNATAKA CO-OP
SOCIETIES ACT.
REP. BY ITS PRESIDENT
SRI NAGESH. N
S/O. NARASIMHAPPA
AGED ABOUT 34 YEARS
2. KOTHURU MILK PRODUCERS
CO-OPERATIVE SOCIETY LTD.
KOTHURUI, PAVAGADA TALUK
TUMKUR DISTRICT

Digitally
signed by
AMBIKA H B
Location:
High Court
of Karnataka

REG. UNDER KARNATAKA CO-OP
SOCIETIES ACT.
REP. BY ITSPRESIDENT
SMT. VEERANAGAMMA
W/O. RANGADAMAPPA
AGED ABOUT 59 YEARS

3. BUDDAREDDY HALLI MILK PRODUCERS
CO-OPERATIVE SOCIETY
BUDDAREDDY VILLAGE AND POST
PAVAGADA TALUK, TUMKUR DISTRICT - 572 136
REPRESENTED BY ITS PRESIDENT

4. MURURAYANAHALLI WOMEN'S MILK PRODUCERS
COOPERATIVE SOCIETY
DOMMATHAMARI POST
PAVAGADA TALUK
TUMKUR DISTRICT - 561 202
REPRESENTED BY ITS PRESIDENT
(IMPLEADED VIDE COURT ORDER DATED
27.11.2025)

...APPELLANTS

(BY SRI S.S. NAGANAND, SENIOR ADVOCATE A/W
SRI ARAVIND REDDY H., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY ITS SECRETARY
DEPARTMENT OF CO-OPERATION
M.S. BUILDING
BANGALORE - 560 001
2. THE CO-OPERATIVE ELECTION COMMISSIONER
CO-OPERATIVE ELECTION AUTHORITY

3RD FLOOR, SHANTHINAGAR, BUS STOP
BENGALURU - 560 027

4. THE RETURNING OFFICER/
ASSISTANT ELECTION OFFICER
THE TUMKURU DISTRICT MILK PRODUCERS
CO-OPERATIVE SOCIETIES UNION LTD
NH - 206, MALLASANDRA POST
TUMKURU - 572 107
5. THE TUMKURU DISTRICT MILK PRODUCERS
CO-OPERATIVE SOCIETIES UNION LTD
NH - 206, MALLASANDRA POST
TUMKURU - 572 107
BY ITS MANAGING DIRECTOR
6. SRI CHENNAMALLAPPA
S/O ERA MALLAPPA
AGED ABOUT 70 YEARS
PRESIDENT, PALAVALLI MILK PRODUCER
CO-OPERATIVE SOCIETY PALAVALLI
NAGALAMADIKE HOBLI
PAVAGADA TALUK
TUMAKURU - 561 202

...RESPONDENTS

(BY SRI K.S. HARISH, GOVERNMENT ADVOCATE FOR R-1,
R-3 & R-4,
SRI A. DEVARAJA, ADVOCATE FOR R-2 (VK NOT FILED)
SRI G. NARASI REDDY, ADVOCATE FOR R-5,
SRI JAYAKUMAR S. PATIL, SENIOR ADVOCATE A/W
SRI KETHAN KUMAR, ADVOCATE FOR C/R-6)

**WA No. 1811 of 2025
C/W WA No. 1816 of 2025
WA No. 1888 of 2025
AND 1 OTHER**

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 26.09.2025 IN W.P. No. 29377/2024, PASSED BY THE LEARNED SINGLE JUDGE OF THIS HON'BLE COURT AND GRANT THE RELIEFS AS PRAYED FOR IN THE IN W.P. No. 29377/2024, BY ALLOWING THE WRIT PETITION IN THE INTEREST OF JUSTICE & ETC.

IN W.A. NO. 1816/2025

BETWEEN:

1. GOWDETI MILK PRODUCERS
WOMEN CO-OPERATIVE SOCIETY LTD.,
GOWDETI, PAVAGADA TALUK
TUMKUR DISTRICT
REGD. UNDER KARNATAKA CO-OP
SOCIETIES ACT
REP. BY ITS PRESIDENT
SMT. CHOWDAMMA
W/O NARAYANAPPA K
AGED ABOUT 65 YEARS

...APPELLANT

(BY SRI S.S. NAGANAND, SENIOR ADVOCATE FOR
SRI ARAVIND REDDY H., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY ITS SECRETARY
DEPARTMENT OF CO-OPERATION
M.S. BUILDING
BANGALORE - 560 001

2. THE CO-OPERATIVE
ELECTION COMMISSIONER
CO-OPERATIVE ELECTION AUTHORITY
3RD FLOOR, SHANTHINAGAR BUS STOP
BENGALURU - 560 027
3. THE DEPUTY COMMISSIONER CUM
DISTRICT FEDERAL CO-OPERATIVE
ELECTION OFFICER
TUMKURU DISTRICT MILK PRODUCERS
CO-OPERATIVE SOCIETIES UNION LTD.
N.H-206, MALLASANDRA POST
TUMKURU - 572 107
4. THE RETURNING OFFICER/
ASSISTANT ELECTION OFFICER
THE TUMKURU DISTRICT MILK PRODUCERS
CO-OPERATIVE SOCIETIES UNION LTD.,
N.H-206, MALLASANDRA POST
TUMKURU - 572 107
5. THE TUMKURU DISTRICT MILK PRODUCERS
CO-OPERATIVE SOCIETIES UNION LTD.
N.H-206, MALLASANDRA POST
TUMKURU - 572 107
BY ITS MANAGING DIRECTOR
6. SRI CHENNAMALLAPPA
SON OF ERA MALLAPPA
AGED ABOUT 70 YEARS
PRESIDENT, PALAVALLI MILK PRODUCER
CO-OPERATIVE SOCIETY PALAVALLI

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C/W WA No. 1816 of 2025
WA No. 1888 of 2025
AND 1 OTHER**

NAGALAMADIKE HOBBI, PAVAGADA TALUKA
TUMAKURU - 561 202

...RESPONDENTS

(BY SRI K.S. HARISH, GOVERNMENT ADVOCATE FOR R-1,
R-3 & R-4
SRI A. DEVARAJA, ADVOCATE FOR R-2 (VK NOT FILED)
SRI G. NARASI REDDY, ADVOCATE FOR R-5,
SRI JAYAKUMAR S. PATIL, SENIOR ADVOCATE A/W
SRI KETHAN KUMAR, ADVOCATE FOR C/R-6)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF
THE KARNATAKA HIGH COURT ACT PRAYING TO SET
ASIDE THE COMMON ORDER DATED 13.10.2025 PASSED
IN W.P. No. 29615/2024 (CS-EL/M), BY THE LEARNED
SINGLE JUDGE OF THIS HON'BLE COURT & ETC.

IN WA NO. 1888/2025

BETWEEN:

1. MURARAYANA HALLI WOMEN'S
MILK PRODUCERS CO-OPERATIVE SOCIETY
MURARAYANAHALLI VILLAGE
DOMMATHMARI POST
PAVAGADA TALUK
TUMAKURU DISTRICT - 561 202
REP. BY ITS PRESIDENT

...APPELLANT

(BY SRI S.S. NAGANAND, SENIOR ADVOCATE FOR
SRI ARAVIND REDDY H., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF CO-OPERATION,
M.S. BUILDING
BANGALORE - 560 001
BY ITS PRINCIPAL SECRETARY
2. THE TUMKUR DISTRICT MILK PRODUCERS
CO-OPERATIVE SOCIETIES UNION LIMITED
NH-206, MALLASANDRA POST
TUMKURU - 572 107
BY ITS MANAGING DIRECTOR
3. THE DIST COMMISSIONER CUM
DISTRICT FEDERAL CO-OPERATIVE ELECTION
OFFICER TUMKURU DISTRICT MILK PRODUCERS
CO-OPERATIVE SOCIETIES UNION LTD.
NH-206, MALLASANDRA POST
TUMKURU - 572 107
4. THE MANAGER & NODAL OFFICER (ELEC)
THE TUMKURU DISTRICT MILK
PRODUCERS CO-OPERATIVE
SOCIETIES UNION LTD.
N.H - 206, MALLASANDRA POST
TUMKUR - 572 107
5. THE CO-OPERATIVE
ELECTION COMMISSIONER
CO-OPERATIVE ELECTION AUTHORITY
3RD FLOOR, SHANTHINAGAR BUS STOP
BENGALURU - 560 027

...RESPONDENTS

**WA No. 1811 of 2025
C/W WA No. 1816 of 2025
WA No. 1888 of 2025
AND 1 OTHER**

(BY SRI K.S. HARISH, GOVERNMENT ADVOCATE FOR R-1
& R-3;
SRI A. DEVARAJA, ADVOCATE FOR R-5 (VK NOT FILED) &
SRI JAYAKUMAR S. PATIL, SENIOR ADVOCATE A/W
SRI KETHAN KUMAR, ADVOCATE FOR
IMPLEADING APPLICANT IN I.A. No.2/2025)

THIS WRIT APPEAL IS FILED UNDER SECTION 4
OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET
ASIDE THE COMMON ORDER DATED 26.09.2025 PASSED
IN W.P. No. 29195/2024 (CS-EL/M), BY THE LEARNED
SINGLE JUDGE OF THIS HON'BLE COURT AND ETC.

IN W.A. NO. 1892/2025

BETWEEN:

1. BUDDA REDDY HALLI MILK
PRODUCERS CO-OPERATIVE SOCIETY
BUDDAREDDYHALLI VILLAGE AND POST
PAVAGADA TALUK
TUMAKURU DISTRICT - 572 136
REP. BY ITS PRESIDENT

...APPELLANT

(BY SRI S.S. NAGANAND, SENIOR ADVOCATE FOR
SRI ARAVIND REDDY H., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF CO-OPERATION
M.S. BUILDING
BANGALORE - 560 001
BY ITS PRINCIPAL SECRETARY

2. THE TUMKURU DISTRICT MILK
PRODUCEERS CO-OPERATIVE
SOCIETIES UNION LTD.
N.H-206, MALLASANDRA POST
TUMKURU - 572 107
BY ITS MANAGING DIRECTOR
3. THE DIST COMMISSIOENR CUM
DISTRICT FEDERAL CO-OPERATIVE
ELECTION OFFICER
TUMKURU DISTRICT MILK PRODUCERS
CO-OPERATIVE SOCIETIES UNION LTD.
N.H-206, MALLASANDRA POST
TUMKURU - 572 107
4. THE MANAGER & NODAL OFFICER (ELEC)
THE TUMKURU DISTRICT MILK
PRODUCERS CO-OPERATIVE
SOCIETIES UNION LTD
N.H - 206, MALLASANDRA POST
TUMKUR - 572 107
5. THE CO-OPERATIVE ELECTION COMMISSIONER
CO-OPERATIVE ELECTION AUTHORITY
3RD FLOOR, SHANTHINAGAR BUS STOP
BENGALURU - 560 027

...RESPONDENTS

(BY SRI K.S. HARISH, GOVERNMENT ADVOCATE FOR R-1
& R-3;
SRI A. DEVARAJA, ADVOCATE FOR R-5 (VK NOT FILED)
SRI JAYAKUMAR S. PATIL, SENIOR ADVOCATE A/W
SRI KETHAN KUMAR, ADVOCATE FOR
IMPLEADING APPLICANT IN I.A. No.4/2025)

**WA No. 1811 of 2025
C/W WA No. 1816 of 2025
WA No. 1888 of 2025
AND 1 OTHER**

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE COMMON ORDER DATED 26.09.2025 PASSED IN W.P. No. 29163/2024 (CS-RES), BY THE LEARNED SINGLE JUDGE OF THIS HONBLE COURT AND ETC.

THESE WRIT APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

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

C.A.V. JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. The appellants are the primary co-operative societies registered under the provisions of the Karnataka Co-operative Societies Act, 1959 (hereafter, '**the KOS Act**'). They have filed their respective appeals impugning common orders dated 26.09.2025 and 13.10.2025.

2. The appellants in W.A.No.1811/2025 (Ballenahalli Milk Producers Co-operative Society Limited and Kothuru Milk Producers Co-operative Society Limited) impugn a common order

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dated 26.09.2025 insofar as it relates to the writ petition no.W.P.No.29377/2024. The said order is a common order passed in a batch of seven similar writ petitions.

3. W.A.No.1888/2025 has been preferred by Murarayanahalli Women's Milk Producers Co-operative Society insofar as the impugned order relates to W.P.No.29195/2024. The appellant in W.A.No.1892/2025 (BuddaReddyhalli Milk Producers Co-operative Society) assails the impugned order dated 26.09.2025 insofar as it relates to W.P.No.29163/2024.

4. The appellant in W.A.No.1816/2025 (Gowdetii Milk Producers Women Co-operative Society Limited) impugns a common order dated 13.10.2025 (which is passed in batch of 4 writ petitions) insofar as it relates to writ petition W.P.No.29615/2024.

5. The orders dated 26.09.2025 and 13.10.2025, which are impugned, are hereafter collectively referred to as impugned orders.

6. The appellants in the present cases are primary milk producers and co-operative societies. They are aggrieved by the order finding them ineligible to vote in the election of the office-

bearers of the Managing Committee of the Tumkuru District Milk Producers Co-operative Societies Union Limited [**District Milk Union**] for the term of five years, 2024 - 2029. They had accordingly filed their respective writ petitions.

7. The District Milk Union is a federal cooperative society registered under the KOS Act, constituted exclusively of primary milk producers' cooperative societies as its member units. The appellant societies, being members of the District Milk Union, were entitled to participate in the elections to the Managing Committee of the Union through their authorized representatives, subject to fulfilling the eligibility criteria prescribed under the bye-laws of the District Milk Union, the provisions of the KOS Act, and the Karnataka Co-operative Societies Rules, 1960 (hereafter, '**the KOS Rules**'). The appellants were held ineligible to participate in the elections under the bye-laws of the District Milk Union, *inter alia*, on the ground that they had not supplied the requisite quantity of milk in the previous co-operative years.

8. The bye-laws of the District Milk Union have been amended several times over the years. The bye-laws registered on 19.01.2018 contained bye-law No.6.6.6, which required every

member society to supply a minimum of 150 kilograms of milk for 270 days during the preceding cooperative year. Chapter 13 of the bye-laws prescribed the rights and responsibilities of member societies, including the obligation under bye-law 13.1(a) to supply, on average, 150 kilograms of quality milk per day to the District Milk Union for at least 270 days in each cooperative year. Additionally, bye-law 13.1(e) mandates that member societies shall supply pure milk, without any adulteration, to the District Milk Union every day.

9. Chapter 15 of the bye-laws deals with ineligibility to vote in the Annual General Body Meeting and to participate, contest, and vote in the election of the Directors of the District Milk Union. The grounds for ineligibility included:

- (1) failure to attend two out of five last general body meetings;
- (2) failure to supply milk for minimum 270 days in every cooperative year on an average of 150 kilograms of milk to the Union as per the terms and conditions;
- (3) failure to utilize minimum services or facilities as specified in the bye-laws for any two cooperative years;
- (4) supply of milk to other dairies or private dairies in any of the previous three cooperative years;

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- (5) the member society being continuously defunct for 90 days or its board of management being rescinded or liquidated;
- (6) default in repayment of loan or payment of any other dues; and
- (7) becoming a member of the Union within twelve months immediately prior to the date of the meeting or election.

10. Subsequently, the bye-laws of the District Milk Union were further amended and registered on 07.05.2024. The registration order for the said amended bye-laws was passed on 27.05.2024. The amended bye-law No. 15.2 provided that a member society that fails to supply milk to the District Milk Union for a minimum of 270 days in each cooperative year, on average 150 kilograms per day, would be ineligible to vote and participate in elections. Bye-law 15.2 of the bye-laws of the District Milk Union as amended and registered on 07.05.2024 is set out below:

"failure to supply milk for minimum 270 days in every cooperative year on an average of 150 kilograms of milk to the Union as per the terms and conditions."

11. The term of the Managing Committee of the District Milk Union expired, and an Administrator was appointed in 2023 to manage its affairs pending fresh elections. During the period, while

the affairs of the District Milk Union were under the administration of the Administrator, the District Milk Union initiated the process of preparing the voters' list for the elections by issuing notices to member societies under Rule 13-D(2) of the KOS Rules.

12. Between December 2023 and October 2024, the District Milk Union and the election authorities issued multiple show cause notices to the appellant societies under Rule 13-D(2-A) of the KOS Rules, calling upon them to explain why their names should not be included in the list of ineligible voters. The notices dated 21.12.2023, 29.01.2024, 01.07.2024, 08.08.2024, and 16.10.2024 alleged that the appellant societies had failed to attend two General Body Meetings out of the last five, and had not utilised the minimum services prescribed under Bye-laws 15.1, 15.2, and 15.3 of the bye-laws of the District Milk Union for two cooperative years.

13. The appellant societies submitted replies to the said show cause notices, explaining the circumstances that led to any shortfall in milk supply. The appellants also claimed that they had consistently supplied more than 150 kilograms of milk for 270 days during the last five cooperative years (2018-2023). They further contended that certain milk quality readings, particularly the Solids-

Not-Fat (SNF) value, were deliberately manipulated by staff at the District Milk Union's chilling centres, who acted in collusion with the Union's Director to reduce the SNF value below the prescribed standard of 8.5%. The appellants averred that the erring employees had been placed under suspension by the District Milk Union, and criminal proceedings arising from this incident were in progress. They contended that this fact demonstrated that the fault lay with the Union's staff and not with the appellant societies.

14. The appellants also cited exceptional circumstances that temporarily affected milk production, including the outbreak of Lumpy Skin Disease among cattle in Pavagada Taluk between August 2022 and March 2023, which resulted in the large fatalities amongst cattle in the region. Additionally, the appellant societies claimed that, being situated in drought-prone regions where cattle rearing is inherently difficult, they faced challenges due to extreme summer and winter conditions that naturally reduce milk yield and quality. The impact of the Covid-19 pandemic during 2019-20 and 2020-21 was also cited as a factor that affected milk production and supply. However, the said contentions were not accepted, and the names of the appellant societies were listed in the list of ineligible

voters. The elections to the District Milk Union's Managing Committee were notified. However, it was subsequently postponed. The decision to postpone the elections was challenged in W.P.No.24015/2023. The same was dismissed by this Court by an order dated 22.01.2024. The appeal preferred against the said order, being W.A.No.280/2024, was also rejected by an order dated 27.06.2024.

15. On 21.10.2024, respondent No.4 (the Returning Officer) issued a fresh notification for the conduct of elections to the District Milk Union, scheduling the election for 10.11.2024. The elections were notified for the term 2024-25 to 2028-29.

16. Aggrieved by their inclusion in the ineligible voters' list, the appellant societies and other similarly situated primary societies filed writ petitions before this Court, seeking to quash the endorsements that included them in the ineligible voters' list and to direct that they be permitted to participate in the scheduled elections. Apart from the writ petitions from which these appeals arise, there are other connected writ petitions raising similar challenges.

17. The learned Single Judge passed interim orders in several writ petitions – orders dated 23.10.2024, 05.11.2024 and 08.11.2024 – permitting the petitioner societies in their respective petitions, including those from which the present appeals arise, to cast their votes in the elections for the Board of Directors of the District Milk Union to be held on 10.11.2024. The appellant societies also participated in the elections and cast their votes through their authorized representatives. Thereafter, by an order dated 07.01.2025 (in W.P.No.27139/2024 clubbed with W.P.No.29615/24 and W.P.No.30054/24), the learned Single Judge directed the Returning Officer to count the votes cast, including of the societies that were held to be ineligible to participate in the elections. The votes were counted on 09.01.2025, and the Returning Officer declared the election results. Pursuant to the same, the New Managing Committee of the District Milk Union was constituted and is functioning.

18. After the declaration of election results, the writ petitions were heard on merits by the learned Single Judge and were disposed of by two common orders dated 26.09.2025 and 13.10.2025.

19. By the impugned order dated 26.09.2025, passed in W.P. No. 29044/2024 and connected matters (including W.P. No. 29163/2024, W.P. No. 29182/2024, W.P. No. 29189/2024, W.P. No. 29192/2024, W.P. No. 29195/2024, and W.P. No. 29377/2024), the learned Single Judge dismissed the writ petitions. The learned Single Judge observed that one of the conditions prescribed for a primary society to be eligible to vote at the election to the federal society was that it should have supplied a minimum quantity of 150 kilograms of milk during the previous cooperative years. The Court noted that many petitioners contended that though notices were issued to them stating that they had failed to supply the minimum quantity of milk, they had replied explaining their difficulty in supplying the required quantity owing to Covid-19 and other reasons. However, the Court held that such explanations could not be considered by the Election Officer, whose duty was only to ascertain whether the petitioners had, in fact, supplied the requisite quantity of milk or not.

20. The learned Single Judge further observed that the primary milk-producing societies were not only bound to supply the minimum quantity of milk but also to ensure that the milk supplied

met the quality prescribed by the Apex Milk Union, which mandated an SNF of 8.5%. The Court noted that the petitioners who were treated as ineligible on account of not supplying quality milk had not denied that the milk supplied by them did not meet the prescribed quality, but only contended that someone at the chilling centre had adulterated the milk. The Court characterised this as an "omnibus defence" without justifiable material.

21. The learned Single Judge observed that all the petitioners had accepted payment from the District Union, which had considered the milk supplied by them to be of substandard quality and had proportionately reduced the volume based on the fat percentage. The Court noted that none of the petitioner societies had raised any dispute against the District Milk Union, claiming that someone else at the chilling centre had adulterated the milk and that they were not liable.

22. By a supplementary order dated 06.11.2025, the learned Single Judge observed that while disposing of the writ petitions by order dated 26.09.2025, the Court had inadvertently not directed the Returning Officer to exclude the votes cast by the petitioners. Accordingly, the Court added a direction that the Returning Officer

shall recount the votes after excluding the votes cast by the petitioners and issue a fresh declaration by counting the eligible votes cast within fifteen days from the date of receipt of a certified copy of the said order.

23. By the impugned order dated 13.10.2025 passed in W.P. No. 27139/2024 and connected matters (including W.P. No. 29615/2024, W.P. No. 30054/2024, and W.P. No. 1415/2025), the learned Single Judge dismissed the writ petitions essentially, for the same reasons as articulated in the impugned order dated 26.09.2025.

24. The Court also referred to the judgments of coordinate benches in **H.S. Raju Vs. State of Karnataka and others¹**, **Mohammad Beary and Others vs. The State of Karnataka and Others (W.P. No. 29271/2023 and connected matters)**, and **Sri B. Ganganna and others vs. The State of Karnataka and Others²**, and observed that any dispute regarding the constitution of a Managing Committee of a Cooperative Society has to be worked out before the competent authority under Section 70(2)(c)

¹ (2022) 4 AKR 775

² ILR 2024 KAR 1901

of the KOS Act. The Court held that the exercise of jurisdiction under Article 226 of the Constitution was for the limited purpose of ascertaining whether the procedure prescribed in law for treating a member as ineligible was followed. The District Milk Union and Election Officer had issued appropriate notices under Rule 13-D(2-A) of the KOS Rules, and the petitioners had replied, thereby demonstrating compliance with the procedural requirements.

25. The learned Single Judge has directed the Returning Officer to exclude the votes cast by the petitioners and issue fresh declaration by counting the eligible votes cast within fifteen days from the date of receipt of a certified copy of the order. The Court further directed that if any petitioner had contested the election, the Returning Officer shall reject its candidature and proceed to issue a fresh declaration after excluding the votes cast by the petitioners.

26. Although the appellants have raised several grounds of challenge, Mr. S.S. Naganand, the learned Senior Counsel appearing for the appellants confined the challenge in the writ appeals to the interpretation of clause (a-v) of Sub-section (2) of Section 20 of the KOS Act.

27. He submitted that a member or a representative who has availed the minimum services for a period of two years out of five co-operative years would be eligible to vote. He contended that undisputedly, all the appellants had supplied the requisite quantity of milk, that is, 150 kilograms, for a period of 270 days during three of the five co-operative years, that is, from 2018 to 2023. He submitted that in order to attract the disqualification of non-supply of the requisite quantity of milk, must exceed two co-operative years out of the previous five years. However, the respondents were penalising the appellants, notwithstanding that the appellants had supplied the minimum quantity for three of the five previous cooperative years. Further, he submitted that the non-supply of the requisite quantity of milk must be for consecutive years.

REASONS AND CONCLUSIONS

28. As noted at the outset, the learned Senior Counsel had confined the challenge in the present appeals only to the question of the interpretation of clause (a-v) of Sub-section (2) of Section 20 of the KOS Act. It is important to note that in the writ petition, some of the appellants had also challenged the manner of computing the quantity of milk supplied. According to them, the quantity of milk

supplied could not be determined by excluding milk that did not meet the minimum SNF of 8.5%. Additionally, some of the appellants had also challenged the application of bye-laws regarding the minimum quantity of milk (150 kgs for 270 days during the co-operative year) where there were extenuating circumstances, including conditions of drought and outbreak of lumpy skin disease during the period August 2022 to March 2023, resulting in fatalities amongst cattle. However, as noted at the outset, the learned Senior Counsel confined the challenge only to the interpretation of clause (a-v) of Sub-section 2 of Section 20 of the KOS Act. He neither disputed the manner of computing the quantity of milk supplied nor canvassed the rigours of the bye-laws that were required to be relaxed on the ground of extenuating circumstances/force majeure events.

29. We may note that the appellants had challenged Bye-law 15.2, as amended on 27.05.2024. In terms of the said bye-law, failure to supply the specified quantity of milk for a minimum period of 270 days “every co-operative year” would render the Society ineligible to participate, contest, and vote in the election of Directors of the District Milk Union. The said amendment was challenged on

the ground that it *was ultra vires* Section 20(2)(a-v) of the KOS Act. Additionally, the said amendment could not have any retrospective application.

30. The contesting respondents do not dispute that clause (a-v) of Sub-section (2) of Section 20 of the KOS Act is applicable, and the question whether a primary society is ineligible to participate, contest and vote in the election of Directors of the District Milk Union is required to be determined on the basis of the said clause. Clause (a-v) of Sub-section (2) of Section 20 of the KOS Act as in force prior to 05.10.2021, reads as under:

“20. Votes of members.-(1) No member, no representative or no delegate] of a society shall have more than one vote in the general meeting or in the election of the members of the board of the co-operative society:

(2) The following shall not have the right to vote at a general meeting or an election of the members of the board of the co-operative society in which they are members, namely.-

[(a) xxx

(a-i) xxx

(a-ii) xxx

(a-iii) xxx

(a-iv) xxx

(a-v) a member or a representative who has failed to utilise such minimum services or facilities in a co-operative year as may be specified in the bye-laws for three consecutive co-operative years:

Provided that in case of members in clauses (a-iv) and (a-v), such members shall not have the right to vote at a general meeting or an election of members of the Board for a period of three years.”

31. The said clause was amended by virtue of * the Karnataka Co-operative Societies (Amendment) Act, 2021. Clause (a-v) of Sub-section (2) of Section 20 of the KOS Act * was substituted by Section 5(iii) of the said amendment Act and the proviso to clause (a-v) of Sub-section (2) of Section 20 of the KOS Act was amended by Section *5(iv) of the same Act.

32. Clause (a-v) of Sub-section (2) of Section 20 of the KOS Act as in force with effect from *05.10.2021, reads as under:

“20. Votes of members.-(1) No member, no representative or no delegate of a society shall have more than one vote in the general meeting or in the election of the members of the board of the co-operative society:

(2) The following shall not have the right to vote at a general meeting or an election of the members of the board of the co-operative society in which they are members, namely.-

- (a) xxx
- (a-i) xxx
- (a-ii) xxx
- (a-iii) xxx
- (a-iv) xxx

(a-v) a member or a representative who has failed to utilise such minimum services or facilities in a co-operative year as may be specified in the bye-laws for any two co-operative years out of the last five Co-operative years.

Provided that in case of members in clauses (a-iv) and (a-v), such members shall not have the right to vote at a general meeting or an election of members of the Board for a period of one years.”

33. A plain reading of clause (a-v) of Sub-section (2) of Section 20 of the KOS Act, indicates that if the minimum services or facilities had not been utilized for three consecutive co-operative years, the member society would be ineligible to participate in the elections for a period of three years. The said condition of ineligibility was substituted. Post the amendment, a failure to utilize the services “for any two **Co-operative* years out of the last five cooperative years” would render the society ineligible to vote. However, the disqualification was confined to a single year instead of three years as posited prior to the amendment coming into force.

34. Language of clause (a-v) of Sub-section (2) of Section 20 of the KOS Act is unambiguous. Thus, if there is a failure to utilize the minimum services “for any two Co-operative years out of last five Co-operative years”, the society would be ineligible. There is no

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requirement that the default should be for consecutive cooperative years for the disqualification to apply.

35. The contention that the said clause would be satisfied if the appellants had supplied the requisite quantity for three co-operative years out of five is also unmerited.

36. The words of clause (a-v) of Sub-section (2) of Section 20 of the KOS Act are unambiguous. The test is whether there was a failure to utilise the service for two of the past five cooperative years. This means that if there was a failure in one of the five years, the co-operative society would not be disqualified. However, if the failure **extended* to two or more years, the same would apply. The milk supply data mentioned in the writ petitions clearly indicates that the appellants had failed to supply average of 150 kgs for 270 days in two co-operative years or more out of the past five cooperative years.

37. In the given circumstances, it is not necessary to examine whether the amended bye-laws are applicable retrospectively or are required to be read down to conform to Section 20 of the KOS Act. Since the data provided – on the basis of which the

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submissions were advanced – clearly establishes that the requirement of clause (a-v) of Sub-section (2) of Section 20 of the KOS Act is applicable; that the appellants were ineligible to contest or vote in the election in question.

38. The appeals are accordingly dismissed.

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

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

KPS