**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 20TH DAY OF DECEMBER, 2024

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

**WRIT PETITION NO.107761 OF 2024 (CS-EL/M)
C/W
WRIT PETITION NO. 107720 OF 2024**

IN WP.NO.107761/2024:

BETWEEN:

1. SRI JAGADEESH BASAPPA CHALAVADI,
AGE: 48 YEARS OCC: AGRICULTURE,
R/O: B.K. HALLI VTC MAGWAD,
PO: BAZARKUNCHANALLI,
DIST: UTTARA KANNADA.

2. SHANTARAM MARUTI KANCHANALAKAR
AGE: 57 YEARS,
OCC: AGRICULTURE,
R/O: MAGWAD,
PO: BAZARKUNCHANALLI,
DIST: UTTARA KANNADA.

Digitally signed by VISHAL NINGAPPA PATTIHAL
Location: High Court of Karnataka

3. NAGENDRA YALLAPPA SIDDABHANAVAR,
AGE: 69 YEARS OCC : AGRICULTURE,
R/O B.K. HALLI VTC MAGWAD,
PO: BAZARKUNCHANALLI,
DIST: UTTARA KANNADA.

4. SMT. RENUKA PUNDALIK MADIVAL,
AGE: 62 YEARS OCC: AGRICULTURE,
R/O B.K. HALLI VTC MAGWAD,
PO: BAZARKUNCHANALLI,
DIST: UTTARA KANNADA.

5. MAVALU LAKSMANA GOWDA
AGE: 65 YEARS OCC: AGRICULTURE,
R/O : TIMMAPUR, HAVAGI,
DIST : UTTARAKANNADA.

6. SUNIL DEVENDRA MORI
AGE: 41 YEARS OCC: AGRICULTURE,
R/O B.K. HALLI VTC MAGWAD,
PO: BAZARKUNCHANALLI,
DIST: UTTARA KANNADA.

7. SATAPPA MEENAPPA MORI
AGE: 78 YEARS OCC: AGRICULTURE,
R/O TIMMAPUR, VTC HAVAGI,
DIST: UTTARA KANNADA.

8. HOOVANI TOPANNA DEVAKARI
AGE: 78 YEARS OCC: AGRICULTURE,
R/O TIMMAPUR, HAVAGI,
DIST: UTTARA KANNADA.

9. NAMADEV MARUTI DEVAKARI
AGE: 59 YEARS OCC: AGRICULTURE,
R/O TIMMAPUR, HAVAGI,
DIST: UTTARA KANNADA.

10. SHRIKANTI MAHADEV BIRJI
AGE: 65 YEARS OCC: AGRICULTURE,
R/O TIMMAPUR, YADOGA HALIYAL
DIST: UTTARA KANNADA.

…PETITIONERS

(BY SRI GIRISH S. HIREMATH, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS PRINCIPAL SECRETARY.
DEPARTMENT OF CO – OPERATION,
M.S BUILDING,
6TH FLOOR, BENGALURE,: 560 001.

2. THE CHIEF EXECUTIVE OFFICER
PRATHMIKA KRUSHI PATTIN SAHAKARI SANGH
NIYAMIT HALIYAL, TQ HALIYAL,
DIST: UTTARA KANNADA - 581 329.

3. THE RETURNING OFFICER,
PRATHMIKA KRUSHI URBAN SAHAKARI SANGH
NIYAMIT: TQ : HALIYAL,
DIST: UTTARA KANNADA – 581 329.

4. THE DISTRICT CO OPERATIVE
ELECTION OFFICER, AND DEPUTY
REGISTRAR CO- OPERATIVE
SOCIEITY,
UTTARA KANNADA – 581 303.

5. THE ASSISTANT DIRECTOR OF AGRICULTURE
AND ELECTION OFFICER, AND MULTI PURPOSE
AND PRIMARY KRUSHI
SAHAKAR SANGH NIYAMIT
HALIYAL TQ ;HALIYAL,
DIST : UTTAR KANNADA-581329

6. CO-OPERATIVE ELECTION COMMISSION,
RPTD. BY ITS COMMISSIONER,
3RD FLOOR, SHANTI NAGAR,
TTMC 'A' BLOCK, SHANTINAGAR,
BANGALORE-560027.

…RESPONDENTS

(BY SMT. MALA D. BHUTE, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO, ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENT NO. 3 TO PERMIT THE PETITIONERS TO PARTICIPATE IN THE ELECTION PROCESS INCLUDING RIGHT TO VOTE AND CONTEST SCHEDULED TO BE HELD ON 28.12.2024 FOR THE MANAGEMENT OF COMMITTEE OF THE 2ND RESPONDENT SOCIETY FOR THE NEXT TERM OF FIVE YEARS PURSUANT TO ANNEXURE-B WITHOUT APPLYING SECTION 20(2)(A-IV) OF THE CO-OPERATIVE ACT, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.,

IN WP.NO.107720/2024:

1. SRI RAVINDRA BABAN PATIL,
AGE : 56 YEARS OCC : AGRICULTURE,
R/O NO. 391 HAVAGI, HALIYAL,
TQ : HALIYAL,
DIST : UTTAR KANNADA, 581329.

2. SRI. PRADEEP S/O. VASANT AMBIPPI
AGE: 56 YEARS, OCC : AGRICULTURE,
R/O NO. 391 HAVAGI, HALIYAL,
TQ : HALIYAL,
DIST : UTTAR KANNADA, 581329 1061

3. NEMINATH S/O. RAMANNA CHINAGI,
AGE: 76 YEARS, OCC: AGRICULTURE,
R/O HAVAGI, HALIYAL,
TQ: HALIYAL,
DIST: UTTAR KANNADA – 581329.

4. SHANTINATH S/O. RAMANNA CHINAGI,
AGE: 75 YEARS, OCC: AGRICULTURE,
R/O: HAVAGI, HALIYAL,
TQ : HALIYAL,
DIST : UTTAR KANNADA – 581 329.

5. ANANATH S/O. RAMANNA CHINAGI,
AGE: 80 YEARS, OCC: AGRICULTURE,
R/O: HAVAGI, HALIYAL,
TQ : HALIYAL,
DIST : UTTAR KANNADA – 581 329.

6. PRAVEENCHANDRA S/O. JINARAJ PATIL,
AGE: 52 YEARS OCC: AGRICULTURE,
R/O MAHAVEER ROAD HAVAGI,
TQ : HALIYAL DIST : UTTAR KANNADA 581356.

7. YALLAPPA S/O. BABU ANGADI,
AGE: 53 YEARS, OCC: AGRICULTURE,
R/O: HAVAGI,
TQ : HALIYAL, DIST : UTTAR KANNADA 581356.

8. AMITH S/O. MAHAVEER PANDIT,
AGE: 48 YEARS, OCC: AGRICULTURE,
R/O HAVAGI, TQ : HALIYAL,
DIST: UTTAR KANNADA – 581 356.

9. SHANKAR H. GOUDA,
AGE: 64 YEARS, OCC: AGRICULTURE,
R/O HAVAGI, KERWAD H
TQ: HALIYAL DIST: UTTAR KANNADA, 581356.

10. NARAYAN S/O. DURGAPPA TOSUR,
AGE: 74 YEARS, AGRICULTURE,
R/O HAVAGI, KERWAD H
TQ : HALIYAL DIST : UTTAR KANNADA, 581356.

11. CHANDRA S/O. HANAMANTH NINGANGOUD,
AGE : 60 YEARS, OCC : AGRICULTURE,
R/O GUDNAPUR,

TQ: HALIYAL DIST : UTTAR KANNADA, 581356.

12. PRAKASH S/O. MAHADEV CHALVADI,
AGE: 50 YEARS, OCC : AGRICULTURE,
R/O KERWAD HAVAGI,
TQ: HALIYAL,
DIST : UTTAR KANNADA, 581356.

13. OMANNA S/O. TUKARAM NINGANGOUD,
AGE: 50 YEARS, OCC : AGRICULTURE,
C/O TUKARAM NINGANGOUD,
R/O KERWAD HAVAGI,
TQ : HALIYAL DIST : UTTAR KANNADA, 581356.

14. SHEELA W/O. ABRAHM FIGER,
AGE: 50 YEARS, OCC : AGRICULTURE,
R/O: KERWAD HAVAGI,
TQ: HALIYAL,
DIST : UTTAR KANNADA, 581356.

15. ROOPA JAIN,
AGE: 44 YEARS, OCC: AGRICULTURE,
R/O H.NO. 752, B. NO. 152, HAVAGI,
VIVEK PRAGATI ROAD,
OPP AWALAKKI MILL, HAVAGI,
TQ : HALIYAL, DIST : UTTAR KANNADA, 581356.

16. NABIRAJ JAIN,
AGE: 60 YEARS, OCC: AGRICULTURE,
R/O VIVEK PRAGAGI ROAD, HAVAGI,
TQ: HALIYAL DIST: UTTAR KANNADA – 581 356.

17. SHANTINATH S/O. DEVENDRA PANDIT,
AGE: 89 YEARS, OCC : AGRICULTURE,
R/O: HAVAGI, TQ: HALIYAL,
DIST : UTTAR KANNADA, 581356.

18. MANJUNATH LOKURAPPA MADIVAL,
AGE: 48 YEARS, OCC: AGRICULTURE,
R/O NAVAGRAM HAVAGI POST : HAVAGI,
TQ: HALIYAL, DIST: UTTAR KANNADA, 581356.

19. BERTESH TAVANAPPA DODDAJAIN,
AGE: 40 YEARS, OCC: AGRICULTURE,
R/O: NAVAGRAM HAVAGI POST: HAVAGI,
TQ : HALIYAL, DIST: UTTAR KANNADA – 581 356.

20. MARUTI RAMA BELGAONKAR,
AGE: 52 YEARS, OCC : AGRICULTURE,
R/O HAVAGI, TQ : HALIYAL,
DIST : UTTAR KANNADA, 581356.

21. MANOHAR S/O. PUTTAPPA SHIRODKAR,
AGE: 66 YEARS, OCC: AGRICULTURE,
R/O LAXMI GALLI HAVAGI,
TQ : HALIYAL DIST : UTTAR KANNADA – 581 356.

22. RENUKA D/O. OMANNA TOSER,
AGE: 61 YEARS, OCC : HOUSEWIFE,
R/O: KERWAD HAVAGI,
TQ : HALIYAL DIST : UTTAR KANNADA – 581 356.

23. MAHADEV S/O. SHESHAPPA GOUDA,
AGE: 64 YEARS, OCC: AGRICULTURE,
R/O: KERWAD HAVAGI,
TQ : HALIYAL DIST : UTTAR KANNADA – 581 356.

24. SHIVAJI JAIVANTH GOUDA,
AGE: 46 YEARS, OCC : OCC : AGRICULTURE,
R/O: KERWAD HAVAGI,
TQ: HALIYAL, DIST: UTTAR KANNADA – 581 356.

25. PRAKASH DEMANNA TOSER,
AGE: 57 YEARS, OCC : AGRICULTURE,
R/O: HAVAGI, VTC KERWAD,
TQ : HALIYAL, DIST: UTTAR KANNADA – 581 356.

26. IRANNA S/O. MAHADEV CHALVADI,
AGE: 42 YEARS, OCC: AGRICULTURE,
R/O: HAVAGI, VTC KERWAD,
TQ: HALIYAL,
DIST : UTTAR KANNADA – 581 356.

27. CARMELINA W/O. FARNCISA BARBOJA,
AGE: 64 YEARS, OCC: AGRICULTURE,
R/O: HAVAGI, VTC KERWAD,
TQ: HALIYAL,
DIST: UTTAR KANNADA – 581 356.

28. ARJUN S/O. SAMANNA KALLUR,
AGE: 54 YEARS, OCC: AGRICULTURE,
R/O: HAVAGI, KERWAD,

TQ: HALIYAL,
DIST: UTTAR KANNADA – 581 356.
29. OMANNA DURGAPPA TOSER,
AGE: 74 YEARS, OCC: AGRICULTURE,
R/O: HAVAGI, KERWAD,
TQ: HALIYAL,
DIST: UTTAR KANNADA – 581 356.

30. WILSON FRACIES D SOUZA,
AGE: 55 YEARS, OCC: AGRICULTURE,
R/O: HAVAGI, KERWAD,
TQ: HALIYAL,
DIST: UTTAR KANNADA – 581 356.

31. SAROJANI W/O. RAVI PATIL,
AGE: 56 YEARS, OCC: AGRICULTURE,
R/O: HAVAGI, KERWAD,
TQ: HALIYAL,
DIST: UTTAR KANNADA, 581356.

32. BAVATEES ANTONI PINTO,
AGE: 54 YEARS, OCC: AGRICULTURE,
R/O: HAVAGI, KERWAD,
TQ: HALIYAL,
DIST : UTTAR KANNADA – 581 356.

33. JOOJE VISHANTH SOJA,
AGE: 64 YEARS, OCC: AGRICULTURE,
R/O: HAVAGI, KERWAD,
TQ : HALIYAL,
DIST : UTTAR KANNADA, 581356

…..PETITIONERS

(BY SRI GIRISH S. HIREMATH, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS
PRINCIPAL SECRETARY.
DEPARTMENT OF CO – OPERATION,
M.S BUILDING,
6 TH FLOOR BENGALURE: 560 001.

2. THE CHIEF EXECUTIVE OFFICER,
PRATHMIKA KRUSHI PATTIN SAHAKARI SANGH
NIYAMIT: HALIYAL,

DIST : UTTARA KANNADA – 560 001.

3. THE RETURNING OFFICER,
PRATHMIKA KRUSHI URBAN SAHAKARI SANGH
NIYAMIT, TQ : HALIYAL,
DIST : UTTARA KANNADA – 581 329.

4. THE DISTRICT CO OPERATIVE,
ELECTION OFFICER, AND DEPUTY
REGISTRAR CO- OPERATIVE
SOCIEITY, UTTARA KANNADA – 581 329.

5. THE ASSISTANT DIRECTOR OF
AGRICULTURE
AND ELECTION OFFICER, AND MULTI PURPOSE
AND PRIMARY KRUSHI SAHAKAR
SANGH NIYAMIT
HALIYAL TQ: HALIYAL,
DIST : UTTAR KANNADA – 581 329.

6. CO-OPERATIVE ELECTION COMMISSION,
RPTD. BY ITS COMMISSIONER,
3RD FLOOR, SHANTI NAGAR,
TTMC 'A' BLOCK,
SHANTINAGAR, BANGALORE – 560 027.

…RESPONDENTS

(BY SMT. MALA D. BHUTE, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO, ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENT NO. 3 TO PERMIT THE PETITIONERS TO PARTICIPATE IN THE ELECTION PROCESS INCLUDING RIGHT TO VOTE AND CONTEST SCHEDULED TO BE HELD ON 28.12.2024 FOR THE MANAGEMENT OF COMMITTEE OF THE 2ND RESPONDENT SOCIETY FOR THE NEXT TERM OF FIVE YEARS PURSUANT TO ANNEXURE-B WITHOUT APPLYING SECTION 20(2)(A-IV) OF THE CO-OPERATIVE ACT, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.,

THESE WRIT PETITIONS, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

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

ORAL ORDER

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

Learned counsel for the petitioners appearing in both the writ petitions submits that the total numbers of the 2nd respondent/Society are 4396 members and out of the same, 3562 members are borrowers. He further submits that both the writ petitions are pertaining to the elections with respect to the borrowers of the 2nd respondent/Society and further submits that the ineligible borrowers notified are 1556 in number and the eligible borrowers notified are 2006 in number.

2. Although it is the vehement contention of the learned counsel for the petitioners that notices under 13-D(2-A) of the Karnataka Co-operative Societies Rules, 1960[1] have not been issued, it is relevant to note that the petitioners in W.P No.107720/2024 are 33 in number and petitioners in W.P No.107761/2024 are 10 in number. It is further forthcoming that the eligible numbers amongst the borrower category are 2006. Hence, the participation/non-participation of the petitioners in the election could not make any difference to the said election.

[1] Hereinafter referred to as the 'Rules'

3. It is relevant to note that a Co-Ordinate Bench of this Court in the case of ***Sri B. Ganganna and Others vs. The State of Karnataka, Department of Co-operation and Others***[2] after consideration of the various judgments framed the following points for consideration:

> (a) Whether a writ petition under Article 226 of the Constitution India is maintainable (before the publication of the calendar of events 70 of under Rule 14) to redo the voters' list for violation of Rule 13-D(2-A) (of the Rules, 1960, in preparing the eligible and ineligible voters' list?
>
> (b) Whether the authority acting under Section 70(2)(c) of the Act, 1959 can decide the validity of the electoral roll vis-à-vis Rule 13-D(2-A) le of Rules, 1960?
>
> (c) Whether the judgments of co-ordinate Bench of this Court ***MOHAMMAD BEARY & OTHERS vs. THE STATE OF KARNATAKA & OTHERS***[3] ***and H.S. RAJU AND OTHERS vs. STATE OF KARNATAKA AND OTHERS***[4] are per incurium and contrary to the law in ***ELECTION COMMISSION OF INDIA THROUGH SECRETARY vs. ASHOK KUMAR AND OTHERS***[5]."

3.1 This Court while answering the said questions has held as follows:

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[2] ILR 2024 KAR 1901
[3] Writ petition No.29271/2023 & Connected matters)
[4] 2022 (4) AKR 775
[5] (2000)8 SCC 216

"22. On a cursory reading of the above-mentioned provisions, it is evident that the role of the Co-Operative Election Authority under the scheme of the Act, 1959 and the Rules 1960, in conducting the election to the board of a co-operative society is all-pervasive. Right from the stage of preparing the eligible and ineligible voters' list till the announcement of results, the Co-Operative Election Authority has a predominant role to play in not only conducting the elections to the board of a co-operative society but also in finalising the electoral roll with reference to right to vote and disqualification to vote. This aspect is to be kept in mind while answering the questions raised in the petition.

26. Having considered the predominant role of the Co-Operative Election Authority right from the stage of preparing the electoral roll, finalising the same after hearing the objections, publication of calendar of events and conducting the elections, and having considered the nature of the vote of member in a co-operative society, before proceeding to answer the question whether there can be a challenge to the electoral roll in a petition under Article 226 of the Constitution of India, before the publication of the calendar of events on the premise that the said roll is published in violation of Rule 13-D(2-A), the Court has to consider if any, statutory remedy is available to question the violation of provisions of the Act, 1959 and the Rules, 1960 in preparing the eligible and ineligible voters' list.

28. The plain grammatical meaning of the expression "any dispute arising in connection with the election" itself makes abundantly clear that the Authority under Section 70(2)(c) of the Act, 1959 can decide any dispute in connection with the election of the members of the board of a co-operative society. In addition, as can be noticed from Section 70(2)(c), unlike the provisions in the enactments like The Karnataka Municipalities Act, 1964, Karnataka Gram Swaraj and Panchayat Raj Act, 1993, and even the Representation of People Act, 1951, which provide for election dispute on specific grounds enumerated in the provision, in Section 70(2)(c), the challenge to the election to the Board of a co-operative society is not restricted to certain specific grounds. Thus, there can be no room for any doubt whatsoever that the Section 70(2)(c) of Act, 1959 is wide enough to cover all questions in connection

with Section 20 (a-iv) (a-v) and Rule 13-D (2-A) referred to above.

29. However, a word of caution is needed here. The right to vote and the disqualification to vote in the election to the board of the co-operative society is not just dependent on the procedure to be followed under Rule 13-D(2-A) of the Rules. The right to vote or ineligibility to vote depends on the members meeting, the eligibility criteria prescribed under Section 20(a-iv) and (a-v). Non-compliance with the mandatory procedures prescribed under Rule 13-D(2-A) for preparation of voters' list ipso facto will not make the ineligible voter, eligible to vote. Eligibility to vote is also required to be demonstrated. It is quite possible that even if Rule 13-D92-A) is not followed, the list may conform to Section 20(a-iv) and (a-v) of the Act, 1959. Thus, apart from demonstrating that the Rule 130D is not complied, the member has to demonstrate that the is eligible to vote but should also demonstrate that the faulty voters' list made and impact on the election results.

30. It is also relevant to note that non-compliance of some part of Rule 13-D(2-A), may close the window provided to repay the dues within the time fixed under Rule 13-D(2-A). It will take away the opportunity to be an eligible voter or an opportunity to contest. Losing a chance to contest an election if the nomination paper is rejected on the premise that the candidate's name is not in the electoral roll can also be questioned under Section 70 of the Act, 1959.

33. Admittedly, Section 70(2)(c) does not specify the grounds on which an election to the board of a co-operative society can be set aside. Assuming that there is a vacuum as to what kind of relief can be granted under Section 70(2)(c), applying the principles contained in Section 100(1)(d-iv) of Act of 1951, and following the ratio in ***T.S.PATIL vs. THE J.R.C.S. AND OTHERS[6] and CHANNE GOWDA AND ANOTHER vs. STATE OF KARNATAKA AND OTHERS[7] and HAYAT***

[6] ILR 2007 KAR 491
[7] 1975 (2) Kar.L.J.235

BEIG vs. MUNIVENKATE GOWDA AND OTHERS[8]*, the non-compliance of Rule 13-D(2-A) of Rules, 1960 can be read as a ground available under Section 70(2)(c) of Act, 1959 to challenge the election to the board of a co-operative society. Thus, the Authority under Section 70 of the Act, 1959 can also look into the violation of the provisions of the Act, 1959 and Rules, 1960, applicable to the election to the board of a co-operative society. If, it is established that the electoral roll is prepared in violation of the mandatory rules and that the result of the election is affected on account of faulty electoral roll, then, the Authority under the Act is competent to pass an appropriate order on the election by assessing the impact of faulty electoral roll on the outcome of the election. This being the position, this Court is of the view that the judgment rendered in* ***T S PATIL***[5] *does not come to the aid of the petitioners. On the other hand, the principle laid down in the said judgment will enable the Authority under Section 70 to examine the violation of Rule 13-D(2-A) of Rules, 1960 as well.*

*40**.** Whether the preparation of the electoral roll is part of an election is the question answered by the Apex Court in* ***SHRI SANT SADGURU JANARDAN SWAMI (MOINGIRI MAHARAJ) SAHAKARI DURGHA UTPADAK SANSTHA AND ANOTHER VS. STATE OF MAHARASHTRA AND OTHERS***[9]*. The Apex Court has analyzed the scheme of the Maharashtra Co-operative Societies Rules concerning the preparation of the electoral roll and the process of filing objections to the ineligible voter's list. The Apex Court has taken the view that the preparation of the electoral roll is also an intermediate stage in the election.*

41. The provisions of the Rules, 1960, in so far as the conduct of elections are complete code in itself. The said judgment is indeed rendered interpreting the provisions of the Maharashtra Co-Operative Societies Act and Rules. It is also true that the procedures under the said Act and Rules in preparing the electoral roll are different from the one provided in the Act, 1959 and Rules, 1960. However, the fact that both enactments provide an adjudicatory mechanism before finalizing the

[8] (1972) 1 Mys.L.J.121
[9] (2001) 8 SCC 509

final electoral roll and also the fact that an independent authority other than the co-operative society is assigned with the role of preparing the electoral rolls and conducting elections, the underlying philosophy in both Rules in so far as conducting elections to the board of a co-operative society is by and large the same.

44. In the light of the reasons recorded above, this Court is of the view that as a general principle, the writ petition to challenge the electoral roll published for holding elections to the board of a co-operative society is not maintainable. However, this Court is not holding that the remedy under Article 226 of the Constitution of India is completely ruled out. There may be situations, in the facts and circumstances of a given case, the High Court in the exercise of plenary jurisdiction under Article 226 of the Constitution of India may have to step into avert a total miscarriage of justice in preparing the electoral roll. It is not desirable to spell out those circumstances in this petition. Suffice it to say that the facts obtained in this petition do not warrant such exercise.

50. For the reasons recorded, this Court concludes as under:

(a) The preparation of electoral roll under Rule, 13-D(2-A) of the Karnataka Co-Operative Rules 1960 is an integral part of the election process in the context of a question whether the writ petition is maintainable when the challenge is laid to the procedure initiated for preparing electoral roll.

(b) In a dispute under Section 70(2)(c) of the Karnataka Co-operative Societies Act, 1959, the Authority under Section 70 can decide the question on the validity of electoral roll prepared under the Rules, 1960 and its impact on the election.

*(c) The judgments in **MOHAMMAD BEARY**[2] and **H.S. RAJU**[3] are not per incurium*

> *(d) The writ petition under Article 226 of Constitution of India to challenge the electoral roll on the ground of non compliance of Rule 13-D(2-A) of Rules, may lie in exceptional cases."*
>
> *(emphasis supplied)*

4. In view of the settled position of law as noticed by this Court as referred to above, the present writ petition is disposed off reserving liberty to the petitioners to avail the remedy under Section 70 of the Karnataka Co-operative Societies Act, 1959, since they have failed to demonstrate an exceptional circumstance for granting relief in exercise of the extraordinary discretionary jurisdiction of this Court under Article 226 of the Constitution of India.

SD/-
(C.M. POONACHA)
JUDGE

PMP/CT-ASC
List No.: 1 Sl No.: 33