



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 14<sup>TH</sup> DAY OF NOVEMBER, 2025**

**BEFORE**

**R**

**THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ**

**WRIT PETITION NO. 15301 OF 2025 (CS-RES)**

**BETWEEN**

1. SRI GANGADHAR  
S/O LATE MUNIYAPPA  
AGED ABOUT 43 YEARS,  
RESIDING AT R CHOKKANAHALLI  
GUDIBANDE POST,  
MANDIKAL HOBLI,  
CHIKKABALLAPURA TALUK AND  
DISTRICT - 562101.
2. SRI SRIMAPPA  
S/O LATE CHIKKANARAYANAPPA  
AGED ABOUT 52 YEARS,  
RESIDING AT RAMPATNA VILLAGE AND  
POST  
MANDIKAL HOBLI,  
CHIKKABALLAPURA TALUK AND  
DISTRICT - 562101.
3. SRI K C VENKATESH  
S/O LATE CHOWDAPPA  
AGED ABOUT 50 YEARS,  
RESIDING AT KAMMAGUTTA HALLI,  
MANDIKAL HOBLI,  
CHIKKABALLAPURA TALUK AND  
DISTRICT - 562101.
4. SRI KRISHNAPPA  
S/O LATE NAGAPPA  
AGED ABOUT 55 YEARS,  
RESIDING AT HIRENAGAVALLI,  
MANDIKAL HOBLI,  
CHIKKABALLAPURA TALUK AND





DISTRICT - 562101.

.... PETITIONERS

(BY SRI. M.R. RAJGOPAL., SR ADVOCATE FOR  
SRI. RAJESWARA P.N., ADVOCATE)

**AND**

1. STATE OF KARNATAKA  
DEPARTMENT OF CO-OPERATION,  
M.S.BUILDING,  
BENGALURU 560 001  
REPRESENTED BY ITS CHIEF SECRETARY.
2. THE DEPUTY COMMISSIONER  
CUM DISTRICT FEDERAL CO-OPERATIVE  
ELECTION OFFICER,  
KOLAR DISTRICT-563 131
3. ASSISTANT REGISTRAR CO-OPERATIVE SOCIETIES,  
CHIKKABALLAPURA SUB-DIVISION,  
CHIKKABALLAPURA- 562 101
4. KOLAR AND CHIKKABALLAPURA  
DISTRICT CO-OPERATIVE BANK LIMITED,  
KOLAR- 563 101  
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER
5. VYAVASAYA SEVA SAHAKARA SANGHA NIYAMITA, (VSNN),  
HIRENAGAVALLI VILLAGE,  
MANDIKAL HOBLI,  
CHIKKABALLAPURA TALUK,  
CHIKKABALLAPURA DISTRICT-562 101  
REPRESENTED BY ITS SECRETARY
6. H.S.MOHAN REDDY,  
S/O.V.SHIVARAMA REDDY,  
AGE MAJOR,  
RESIDENT OF HIRENAGAVALLI VILLAGE,  
MANDIKAL HOBLI- 562 101,  
CHIKKABALLAPURA TALUK,  
CHIKKABALLAPURA DISTRICT



7. RAJA REDDY,  
S/O LATE NARAYANAPPA,  
AGE MAJOR,  
RESIDENT OF MAVATHURU VILLAGE,  
KORTIGERE TALUK- 572 129,  
TUMAKURU DISTRICT
  
8. SRI.ARAVIND  
SECRETARY OF VSNN, HIRENAGAVALLI  
AGE MAJOR  
RESIDENT OF HIRENAGAVALLI VILLAGE,  
MANDIKAL HOBLI- 562 101,  
CHIKKABALLAPURA TALUK,  
CHIKKABALLAPURA DISTRICT
  
9. CHIKKBAYANNA,  
S/O. CHIKKABAIRAPPA,  
AGE MAJOR,  
RESIDENT OF MUDDULA HALLI,  
MANDIKAL HOBLI- 562 101,  
CHIKKABALLAPURA TALUK,  
CHIKKABALLAPURA DISTRICT
  
- 10.LAKSHMINARAYANAPPA,  
S/O.CHIKKARAMAIAH,  
AGE MAJOR,  
RESIDENT OF HIRENAGAVALLI VILLAGE,  
MANDIKAL HOBLI- 562 101,  
CHIKKABALLAPURA TALUK,  
CHIKKABALLAPURA DISTRICT
  
- 11.VENKATESHAPPA,  
S/O. VENKATARAYAPPA,  
AGE MAJOR,  
RESIDENT OF P.CHOKKANAHALLI VILLAGE- 562 104,  
MANDIKAL HOBLI,  
CHIKKABALLAPURA TALUK,  
CHIKKABALLAPURA DISTRICT
  
- 12.NARASHIMAPPA,  
S/O NARAYANAPPA,  
AGE MAJOR,  
RESIDENT OF  
R. CHOKKANAHALLI VILLAGE-562 104,



MANDIKAL HOBLI, CHIKKABALLAPURA TALUK,  
CHIKKABALLAPURA DISTRICT

13.SAROJAMMA,  
W/O.HANUMAPPA,  
AGE MAJOR,  
RESIDENT OF R. CHOKKANAHALLI  
VILLAGE-562 104,  
MANDIKAL HOBLI, CHIKKABALLAPURA TALUK,  
CHIKKABALLAPURA DISTRICT

14.NAGAVENAMMA,  
W/O.SEETARAMA,  
RESIDENT OF HIRENAGAVALLI VILLAGE,  
MANDIKAL HOBLI- 562 101,  
CHIKKABALLAPURA TALUK,  
CHIKKABALLAPURA DISTRICT

.... RESPONDENTS

(BY SRI. YOGESH D. NAIK., AGA FOR R1 & R3;  
SRI. JAYAKUMAR S. PATIL., SR. ADVOCATE FOR  
SRI. T.M. CHOWDA REDDY., ADVOCATE FOR R6, R9 TO R14;  
SRI. PRABHULING NAVADGI., SR. ADVOCATE FOR  
SMT. SANJEEVINI P NAVADGI., ADVOCATE FOR R5, R7 & R8;  
SRI. KALLESHPA., ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE  
CONSTITUTION OF INDIA PRAYING TO DECLARE AND HOLD THAT  
THE PURPORTED RESOLUTION DATED 28.04.2025 SUPPOSEDLY  
PASSED ON THE MEETING NOTICE DATED 20.04.2025 BY THE  
VYAVASAYA SEVA SAHAKARA SANGHA NIYAMITA, (VSNN),  
HIRENAGAVALLI VILLAGE IS EX FACIE NON EST AND VOID IN LAW  
(ANNEXURE-C AND C1. AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING  
BEEN RESERVED FOR ORDERS ON 04.11.2025, THIS DAY, THE  
COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ



### **CAV ORDER**

1. The Petitioners are before this Court seeking for the following reliefs:

- i. Declare and hold that the purported Resolution dated 28.04.2025 supposedly passed on the meeting notice dated 20.04.2025 by the Vyavasaya Seva Ssngha Niyamitha, (VSSN), Hiremagavalli Village is ex facie not est and void in law (Annexure- C & C1.*
- ii. Issue a writ of mandamus or any other writ/order/direction restraining the R2 from permitting the R7 to participate in the elections of the Kolar as 'delegate' to the Vyavasaya Seva Sahakara Sangha Niyamitha, (VSNN), Hiremagavalli Village and permit only respondent No.6 to participate in the said elections as delegate vide Resolution dated 22.03.2025 as per Annexure-A;*
- iii. Pass such other orders as this Hon'ble deems fit, including the award of cost/s in the interest of justice and equity.*

2. The Petitioners and Respondent Nos.9 to 14 claim to be Directors of Respondent No.5-Vyavasaya Seva Sahakara Sangha Niyamitha, Hiremagavalli (hereinafter referred to as '**VSNN, Hiremagavalli**' for short), in the meeting of the Board of Directors held on 22.03.2025, unanimously nominated Mr.Mohan Reddy-Respondent No.6 to be a 'delegate'



to cast a vote on behalf of the Society in the elections to the Kolar and Chikballapur District Co-Operative Central Bank Limited (hereinafter referred to as '**KCDCC Bank**' for short) to be held on 28.04.2025.

3. A Voter list dated 12.05.2025 was published on 15.05.2025. On going through the same, the Petitioners found that one Mr.Raja Reddy's name was shown as a 'delegate' of VSNN, Hiremagavalli.
4. On enquiring with the Secretary, Respondent No.8, it is stated that he had given evasive answers. Thereafter, the Petitioners approached the Assistant Registrar of Co-operative Societies (ARCS). From the information given by the ARCS, they came to know about a resolution, dated 28.04.2025, passed by the Board of Directors, where Respondent No.7 was nominated as delegate, alleging that the signatures of the Petitioners found on the said Resolution were



forged, and they had not been given any notice of the meeting to be held on 28.04.2025.

5. The Petitioners also claimed that they were also informed by Respondent Nos.9 to 14 that they had also not been given any notice, nor had they participated in the meeting. Hence, the Petitioners lodged a police complaint regarding the alleged forgery with the Jurisdictional Police. The Jurisdictional Police have issued NCR and have refused to investigate the matter. In that background, the Petitioners have approached this Court.

6. Sri M.R.Rajgopal, learned Senior Counsel appearing for the Petitioners, would submit that:

6.1. Mr.Raja Reddy-Respondent No.7, could not be the delegate of the Society. Since he had defrauded the Society by taking a loan from the Society, suppressing the material fact that he is a member of a Primary Agricultural Credit Co-



operative Society Limited Mavathur, Kortagere. He, being a permanent resident of Mavathur, was not residing in Hiremagavalli and therefore, he could not be a member of VSNN, Hiremagavalli. Respondent No.6, having deceived the Co-operative Society and taken membership, could not be a representative of Respondent No.5-Society in the elections to be held of Respondent No.4.

6.2. When the Petitioners and Respondent Nos.9 to 14 had not participated in the meeting of the Board of Directors purportedly held on 28.04.2025, the Secretary could not have submitted a resolution showing Respondent No.7 as a delegate. He therefore submits that Respondent No.5 could not have represented Respondent No.5 as a delegate.

6.3. When the matter had been taken up by this Court on 27.05.2025, a Coordinate Bench of



this Court directed that the vote cast by Respondent No.7 in the elections to be kept separately by the Election Officer but, categorically opined that the same would not come in the way of the results of the election of Respondent No.4-Society to be declared.

6.4. He therefore submits that the aspect of the forgery by Respondent No.7 and the Secretary would have to be decided by this Court.

6.5. The Directors not having authorised Respondent No.7 he cannot represent the socociety. He refers to Sub-Section (3) of Section 21 of the Karnataka Co-operative Societies Act, 1959 (hereinafter referred to as 'KCS Act, 1959' for short).

6.6. By referring to Sub-Section (3) of Section 21 of the KCS Act, 1959, he submits that a member once nominated by the Board of a Co-operative Society under Clause (a) of Sub-Section (2) to



vote on its behalf in any meeting of any other Co-operative Society shall not be changed except by a resolution passed with substantial reasons in a Board meeting by a two-third majority of the members present and voting in such meeting.

6.7. His submission is that not only does the Resolution have to be passed by a two-thirds majority, but there also have to be substantial reasons provided for in the said Resolution.

6.8. In the present matter, the second Resolution does not indicate any reason, let alone a substantial reason. Therefore, the requirement of Sub-Section (3) of Section 21 of the KCS Act, 1959, has not been complied with.

6.9. He relies on Section 39-AA of the KCS Act, 1959, to contend that a Co-operative Election Commission is required to be established, and



as such, all elections must be conducted by the Election Authority in an independent manner.

6.10. By referring to Article 324 of the Constitution, he submits that the Election Authority under Section 39-AA of the KCS Act, 1959, is similar to the Election Commission constituted under Article 324.

6.11. In this regard, he relies upon the decision of the Hon'ble Apex Court in the case of ***Mohinder Singh Gill And Another Vs. The Chief Election Commissioner, New Delhi And Others<sup>1</sup>***, more particularly para Nos.38, 39 and 113 thereof.

**38.** *Article 324, which we have set out earlier, is a plenary provision vesting the whole responsibility for national and State elections and, therefore, the necessary powers to discharge that function. It is true that Article 324 has to be read in the light of the constitutional scheme and the 1950 Act and the 1951 Act. Sri Rao is right to the extent he insists that if competent legislation is enacted as visualised in Article 327 the Commission cannot shake itself free from the enacted prescriptions. After all, as Mathew, J. has*

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<sup>1</sup>(1978) 1 SCC 405



observed in *Indira Gandhi* (p. 523) (see p. 136, paras 335-6):

*"In the opinion of some of the Judges constituting the majority in Bharati's case [Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225.] rule of law is a basic structure of the Constitution apart from democracy.*

*The rule of law postulates the pervasiveness of the spirit of law throughout the whole range of Government in the sense of excluding arbitrary official action in any sphere."*

*And the supremacy of valid law over the Commission argues itself. No one is an imperium in imperio in our constitutional order. It is reasonable to hold that the Commissioner cannot defy the law armed by Article 324. Likewise, his functions are subject to the norms of fairness and he cannot act arbitrarily. Unchecked power is alien to our system.*

**39.** *Even so, situations may arise which enacted law has not provided for. Legislators are not prophets but pragmatists. So it is that the Constitution has made comprehensive provision in Article 324 to take care of surprise situations. That power itself has to be exercised, not mindlessly nor mala fide, not arbitrarily nor with partiality but in keeping with the guidelines of the rule of law and not stultifying the Presidential notification nor existing legislation. More is not necessary to specify; less is insufficient to leave unsaid. Article 324, in our view, operates in areas left unoccupied by legislation and the words "superintendence, direction and control, as well as 'conduct of all elections', are the broadest terms". Myriad maybes, too mystic to be precisely presaged, may call for prompt action to reach the goal of free and fair election. It has been argued that this will create a constitutional despot beyond the pale of accountability; a Frankenstein's monster who may manipulate the system into elected despotism — instances of such phenomena are the tears of history. To that the retort may be that the judicial branch, at the appropriate stage, with the potency of its benignant power and within the leading strings of legal guidelines, can call the bluff, quash the action and*



*bring order into the process. Whether we make a triumph or travesty of democracy depends on the man as much as on the Great National Parchment. Secondly, when a high functionary like the Commissioner is vested with wide powers the law expects him to act fairly and legally. Article 324 is geared to the accomplishment of free and fair elections expeditiously. Moreover, as held in Virendra [Virendra v. State of Punjab, AIR 1957 SC 896 : 1958 SCR 308] and Harishankar [Harishankar Bagla v. State of M.P., AIR 1954 SC 465 : 1954 Cri LJ 1322 : (1955) 1 SCR 380] discretion vested in a high functionary may be reasonably trusted to be used properly, not perversely. If it is misused, certainly the Court has power to strike down the act. This is well established and does not need further case law confirmation. Moreover, it is useful to remember the warning of Chandrachud, J.:*

*"But the electorate lives in the hope that a sacred power will not so flagrantly be abused-and the moving finger of history warns of the consequences that inevitably flow when absolute power has corrupted absolutely. The fear of perversion is no test of power. [Indira Nehru Gandhi v. Raj Narain, 1975 Supp SCC 1, 251 (para 661) : (1976) 2 SCR 347, 657] "*

**113.** *Article 324(1) vests in the Election Commission the superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the legislature of every State and of elections to the offices of the President and Vice-President held under the Constitution. Article 324(1) is thus couched in wide terms. Power in any democratic set-up, as is the pattern of our polity, is to be exercised in accordance with law. That is why Articles 327 and 328 provide for making of provisions with respect to all matters relating to or in connection with elections for the Union Legislatures and for the State Legislatures respectively. When appropriate laws are made under Article 327 by Parliament as well as under Article 328 by the State Legislatures, the Commission has to act in conformity with those laws and the other legal provisions made thereunder. Even so, both Articles 327 and 328 are "subject to the provisions" of the Constitution which include Article 324 and Article 329.*



*Since the conduct of all elections to the various legislative bodies and to the offices of the President and the Vice-President is vested under Article 324(1) in the Election Commission, the framers of the Constitution took care to leaving scope for exercise of residuary power by the Commission, in its own right, as a creature of the Constitution, in the infinite variety of situations that may emerge from time to time in such a large democracy as ours. Every contingency could not be foreseen, or anticipated with precision. That is why there is no hedging in Article 324. The Commission may be required to cope with some situation which may not be provided for in the enacted laws and the rules. That seems to be the *raison d'etre* for the opening clause in Articles 327 and 328 which leaves the exercise of powers under Article 324 operative and effective when it is reasonably called for in a *vacuous* area. There is, however, no doubt whatsoever that the Election Commission will have to conform to the existing laws and rules in exercising its powers and performing its manifold duties for the conduct of free and fair elections. The Election Commission is a high-powered and independent body which is irremovable from office except in accordance with the provisions of the Constitution relating to the removal of Judges of the Supreme Court and is intended by the framers of the Constitution to be kept completely free from any pulls and pressures that may be brought through political influence in a democracy run on party system. Once the appointment is made by the President, the Election Commission remains insulated from extraneous influences, and that cannot be achieved unless it has an amplitude of powers in the conduct of elections — of course in accordance with the existing laws. But where these are absent, and yet a situation has to be tackled, the Chief Election Commissioner has not to fold his hands and pray to God for divine inspiration to enable him to exercise his functions and to perform his duties or to look to any external authority for the grant of powers to deal with the situation. He must lawfully exercise his power independently, in all matters relating to the conduct of elections, and see that the election process is completed properly, in a free and fair manner. "An express statutory grant of power or the imposition of a*



*definite duty carries with it by implication, in the absence of a limitation, authority to employ all the means that are usually employed and that are necessary to the exercise of the power or the performance of the duty .... That which is clearly implied is as much a part of a law as that which is expressed." [ Sutherland Statutory Construction, Third Edn., p. 20]*

- 6.12. By relying on the decision in ***Mohinder Singh Gill's*** case, he submits that the whole responsibility of conducting the elections is on the Election Authority and it is required of the Election Authority to operate in areas where the law is not clear or specific. The Election Authority is required to consider the aspects and difficulties which arise during the course of the elections and take necessary action.
- 6.13. There being residuary powers with the Election Commission, those residuary powers have to be exercised in areas which are not contemplated by the legislature in the particular statute.
- 6.14. In that regard, he submits that the Returning Officer being appointed by the Election



Commission was required to scrutinise the Resolution which had been submitted to change the delegate to verify, if the requirement of Sub-Section (3) of Section 21 of the KCS Act, 1959, had been complied with, inasmuch as whether there are substantial reasons contained in the said Resolution for changing the delegate. If there is no substantial reason, the Returning Officer ought to have rejected the Resolution changing the name of the delegate.

- 6.15. He refers to Section 2(e-1-a) of the KCS Act, 1959, to contend that the 'delegate' means a Director of a Co-operative Society appointed by the Board to represent that Co-operative Society in other Co-operative Society with power to participate and vote in the general meeting and to contest or propose or second in the election of the Co-operative Society to which he is appointed as delegate.



- 6.16. It was therefore required for the Returning Officer to verify if the delegation is proper or not in terms of Sub-Section (3) of Section 21 of the KCS Act, 1959.
- 6.17. He relies on Section 98-Q of the KCS Act, 1959, to contend that the elections to the Board of a Co-operative Society under the Co-operative Credit Structure shall be conducted in accordance with the provisions of Sub-Section (2) of Section 39-A and as such, by referring to Section 39-A, he submits that every election is required to be held under the superintendence of the Co-operative Election Authority.
- 6.18. He refers to Rule 13-BB of the Karnataka Co-operative Societies Rules, 1960 (hereinafter referred to as the '**KCS Rules, 1960**' for short) and contends that an Election Officer for each District/Region/State, can be appointed by the Co-operative Election Authority.



6.19. By referring to Rule 13-C of the KCS Rules, 1960, he submits that the conduct of general elections has to be done by the Election Officer and the Rules for elections to the Co-operative Society prepared by the Chief Executive, has to be verified and approved by the Election Officer by taking into consideration Sub-Section (3) of Section 21 of the KCS Act, 1959.

6.20. He submits that in this particular case, the Election Officer has acted in a negligent manner and he has not considered the objections which have been raised. He has Firstly, not considered that the Resolution changing the name of the delegate has not been properly passed, complying with Sub-Section (3) of Section 21 of the KCS Act, 1959 and secondly, the objection raised has not been considered, resulting in the representative elected by the Board of Directors not representing the Society.



6.21. By referring to Rule 13-D(6) of the KCS Rule, 1960, he submits that the Co-operative Election Authority was required to call upon the Chief Executive to obtain from the member Society, the name of an authorised member of the Board of such Society as a delegate, together with the Resolution of Board of the said Society and the specimen signature along with the photograph of the delegate duly attested and bearing the seal of the Society and furnished the same under Sub-Rule (5) of the KCS Rules, 1960. This has also not been complied with by the Election Authority.

6.22. The last date for submission of delegates being 26.03.2025 and the draft voters list was published on 05.04.2025. Once the electoral roll is published, no change can be made in it, including the name of the delegate. On that basis, he submits that the actions taken by the



Election Authority, including the Election Officer, are contrary to the electoral statutes. This Court ought to exercise its writ jurisdiction to correct the injustice which has been done.

7. Sri. Jayakumar S. Patil, learned Senior Counsel appearing for Respondent Nos.6, 9 to 14 would submit that:

7.1. Both Respondent Nos.6 and 7 are parties to both the resolutions i.e., the appointment of Respondent No.6 initially and the substitution of Respondent No.6 by Respondent No.7 subsequently. Three of the Petitioners had attended the meeting and signed the Resolution. The fourth petitioner was absent.

7.2. His submission is that in terms of Rule 13-D(3) of the KCS Rules, 1960, the Election Officer is required to take steps for publication of the voters list, firstly by publication of the draft eligible electoral list, list of defaulters, and the



list of members whose repayment falls due before the election date, clear fifty days, then call for objections, if any, scrutinise and verify the objections and the voters' list, after payment by defaulters, publish the final eligible voters' list. This procedure has been followed by the Election Officer, and there cannot be any fault found in the same.

7.3. The eligible electoral voters list consists of the eligible Co-operative Societies, which are required to vote, i.e., distinct from the delegates of the Co-operative Society. The delegate, who will represent the Co-operative Society, can only be considered after the Co-operative Society is held to be eligible to vote.

7.4. The name of the delegate or a change in the name of the delegate is not subject matter of Rule 13 of the KCS Rules, 1960, except to



obtain the name of such delegate under Sub-Rule (6) of Rule 13-D.

- 7.5. In terms of Sub-Section (3) of Section 21 of the KCS Act, 1959, what is required for a change in the name of the delegate is that the Resolution for such change is to be passed by a two-thirds majority of the Board, whereas the initial delegate could be appointed with a simple majority.
- 7.6. This safeguard under Sub-Section (3) of Section 21 of the KCS Act, 1959, having been satisfied in terms of the Resolution which has been passed, no fault could be found with the Election Officer and/or the Chief Executive Officer.
- 7.7. Annexure-C is a meeting notice which had been issued. The same cannot be disputed by the Petitioners.



7.8. The Resolution having been passed on 28.04.2025, the final list of eligible voters, along with the delegate, was published on 12.05.2025. The election was held on 28.05.2025. The writ petition had been filed only two days before the election on 26.05.2025 to create an artificial pressure on the Court.

7.9. If at all the Petitioners had any grievance, they should have approached this Court immediately after 28.04.2025 or at least immediately after 12.05.2025, after the final list was published. This artificial pressure, which had been created, has resulted in the interim order being passed. There being no objection raised by the Petitioners from 28.04.2025 to 12.05.2025, the final list was published and the elections notified. He therefore submits that the vote



which has been cast by Respondent No.7 would have to be taken into consideration.

7.10. The allegation of the Petitioners that there is a forgery of the Resolution is completely false, and as directed by the Coordinate Bench of this Court at the time of passing the interim order, the Petitioners would have to be directed to make payment of the cost of Rs.1,00,000/- to the Karnataka State Legal Services Authority.

7.11. He submits that the allegation made against Respondent Nos.9 to 14 that they had allegedly informed the Petitioners of their not having received any notice and/or not participated in the meeting is completely false.

7.12. He lastly submits that notice of the Board meeting was given to all the members. Respondent Nos.6, 9 to 14 attended the said meeting, and the Resolution was validly passed. Respondent No.6 gave up his delegateship, and



in the meeting, Respondent No.7 was elected as a delegate.

7.13. On the above submissions, he submits that the Writ Petition is required to be dismissed by imposing exemplary costs.

8. Sri Prabhuling Navadgi, learned Senior Counsel, appearing for Respondent Nos.5,7 and 8 adopts the arguments of Sri Jayakumar S. Patil, learned Senior Counsel for Respondent Nos.6, 9 to 14.

8.1. He additionally submits that Respondent No.6 not having any objection for Respondent No.7 to represent Respondent No.5-Society and the petitioners cannot have any objections. In the second meeting, Respondent No.6 has voluntarily given up his delegation, and in that background, the meeting of the Board has appointed Respondent No.7 as its delegate to the election of Respondent No.4.



- 8.2. The Petitioners, who have voted at the meeting, have set up this false writ petition for reasons best known to them. At the most, the Petitioners could claim that it is only Respondent No.6, who could represent Respondent No.5. Respondent No.6, having voluntarily given up his delegateship, and Respondent No.7, having been chosen as a delegate. The petitioners cannot have any grievance in relation thereto.
- 8.3. He submits that respondent Nos.5, 7 and 8 had attended the meeting and voted at the said meeting, negating the submission of the counsel for the petitioners.
9. Heard Sri M.R.Rajgopal, learned Senior Counsel for the Petitioners, Sri Yogesh D. Naik, learned AGA for Respondent Nos.1 and 3, Sri Jayakumar S. Patil, learned Senior Counsel for Respondent Nos.6, 9 to 14, Sri Prabhuling Navadgi, learned Senior Counsel



for Ms.Sanjeevini P. Navadgi, learned counsel for Respondent Nos.5, 7 and 8, Sri Kalleshappa, learned counsel for Respondent No.4 and perused the papers.

10. The points that would arise for consideration of this Court are:

1. **Whether the Resolution passed by Respondent No.5-Society on 22.03.2025, changing the delegate, is proper and correct?**
2. **Whether the meeting held on 22.03.2025 is proper and correct, and the resolutions passed can be challenged in the manner as sought to be done?**
3. **Whether the vote of Respondent No.7 is required to be taken into consideration while declaring the results of the election to Respondent No.4-Society?**
4. **Is the electoral roll prepared, including the name of Respondent No.7 as a delegate on behalf of Respondent No.5, valid?**
5. **What order?**

11. I answer the above points as under:

12. **ANSWER TO POINT NO.1: Whether the Resolution passed by Respondent No.5-Society on 22.03.2025, changing the delegate, is proper and correct?**



12.1. The submission of Sri M. R. Rajagopal, learned Senior Counsel for the petitioners, is that a change in the name of the delegate could not be made without a specific reason and two-thirds of the majority approving it. Of course, there are various other allegations made against Respondent No.7 as regards the manner in which he obtained membership, etc., which cannot be considered by this Court in these proceedings. If at all the petitioners are aggrieved by those aspects, the petitioners would have to agitate the same before the appropriate Forum.

12.2. Insofar as the delegation of Respondent No. 7 is concerned, his submission is that all the Directors not having authorised Respondent No. 7, Respondent No. 7 could not represent the Society. A reference has been made to Sub-Section (3) of Section 21 of the KCS Act, 1959,



to contend that a member once nominated by the Board of a Co-operative Society shall not be changed except by a resolution passed with substantial reason in a Board Meeting by a two-thirds majority.

12.3. His submission is that the requirement under Sub-Section (3) of Section 21 of the KCS Act, 1959, is twofold. Firstly, there has to be a substantial reason assigned, and secondly, the Resolution has to be passed by a two-thirds majority. If either of the two is not available, then the Resolution is invalid.

12.4. By relying on ***Mohinder Singh Gill's*** case, he submits that the Election Authority was required to verify, if the Resolution placed before the Election Authority was accompanied by substantial reason and had been passed by two-thirds majority, the Election Authority having accepted the substitution without these



two requirements being satisfied, his submission is that the action on the part of the Election Authority would be subject to judicial review in terms of the decision in ***Mohinder Singh Gill's*** case.

12.5. The submission of Sri Jayakumar S. Patil, learned Senior Counsel for Respondent Nos.6, 9 to 14, is that in terms of Sub-Section (3) of Section 21 of the KCS Act, 1959, what is required for a change in the name of the delegate is that the Resolution for such change is to be passed by a two-thirds majority, whereas the initial delegate could be appointed with a simple majority.

12.6. A resolution having been passed in the present matter with a two-thirds majority, the earlier delegate not wanting to represent the Society, there cannot be a better reason for passing a resolution of substitution under Sub-Section (3)



of Section 21 of the KCS Act, 1959, since without such a resolution, the Society would have gone unrepresented.

12.7. The facts being as they are indicated above, admittedly, there was an unanimous resolution which had been passed nominating Respondent No.6. Subsequently, Respondent No.6 was replaced by Respondent No.7 by a two-thirds majority. The only other requirement in terms of submission of Sri.M.R.Rajgopal, learned Senior Counsel, is that a substantial reason ought to have accompanied the said Resolution.

12.8. There can be no denial of the said requirement, but however, in this particular case, when the earlier delegate, Respondent No.6, refused to be a delegate, there was no delegate representing Respondent No.5, hence, that reason is a substantial reason, in my considered opinion, for a Resolution under Sub-



Section (3) of Section 21 of the KCS Act, 1959, to be passed. The same being indicated in the Resolution the Election/Returning Officer has discharged his duties in a proper manner.

12.9. Hence, I answer point No.1 by holding that the Resolution passed by Respondent No.5/Society on 22.03.2025 changing the delegate is proper and correct, considering that the earlier delegate did not want to proceed to represent the Society as a delegate and that the Resolution has been passed by a two-thirds majority.

13. **ANSWER TO POINT No.2: Whether the meeting held on 22.03.2025 is proper and correct, and the resolutions passed can be challenged in the manner as sought to be done?**

13.1. The submission of Sri M.R. Rajgopal, learned Senior Counsel, is that the petitioners and Respondent Nos.9 to 14 had not participated in the meeting of the Board of Directors held on 28.04.2025 and as such, the Secretary could



not have submitted a resolution showing Respondent No.7 as a delegate.

13.2. This contention has been negated by Respondent Nos.9 to 14, who have categorically stated that Respondent Nos.9 to 14 were present in the meeting and were parties to the Resolution. The petitioners not having participated in the meeting, the quorum for the meeting being held to be sufficient, and the Resolution for substitution having passed by two-thirds majority, I am of the considered opinion that the meeting having been attended by all the other Directors except the petitioners, is proper and correct and the contention of the petitioners is negated and/or rather falsified by Respondent Nos.9 to 14 contending that they had attended the meeting.

13.3. The meeting having been convened properly by a notice having been issued and a resolution



having been passed in a proper manner, I am of the considered opinion that the same cannot be challenged in the manner as done.

13.4. Hence, I answer point No.2 by holding that the meeting held on 22.03.2025 is proper and correct, and the Resolution passed cannot be challenged in the manner as sought to be done.

14. **ANSWER TO POINT NO.3: Whether the vote of Respondent No.7 is required to be taken into consideration while declaring the results of the election to Respondent No.4-Society?**

14.1. In view of my answers to point Nos.1 and 2, Respondent No.7 now being a valid delegate of Respondent No.5 for the elections in Respondent No. 4/Society, the dispute being *inter se* between the governing body members of Respondent No.5/Society. The Resolution passed, substituting Respondent No.6 with Respondent No.7 and Respondent No.7 having voted in the election to Respondent



No.4/Society. I do not find any infirmity in the said voting by Respondent No.4, which was permitted vide interim orders passed by this Court.

14.2. Hence, I answer point No.3 by holding that the vote of Respondent No.7 is required to be taken into consideration while declaring the results of the election to Respondent No.4/Society.

15. **ANSWER TO POINT No.4: Is the electoral roll prepared, including the name of Respondent No.7 as a delegate on behalf of Respondent No.5, valid?**

15.1. As indicated supra, Respondent No.6, being the delegate of Respondent No.5, being substituted by Respondent No.7, the inclusion of the name of Respondent No.7 in the electoral roll on such delegation being registered with the Election/Returning officer is proper and correct. The exercise of voting rights by Respondent No.7 is also proper and correct. I do not find any infirmity in the said inclusion of the name



of Respondent No.7 in the electoral roll prepared in respect of Respondent No.4/Society.

15.2. As such, I answer point No.4 by holding that the electoral roll prepared, including the name of Respondent No.7 as a delegate on behalf of Respondent No.5 for the election of Respondent No.4 is valid.

16. **ANSWER TO POINT NO.5: What order?**

16.1. In view of my answers to all the points above, no grounds being made out, the petition stands *dismissed*, the results of the election shall be announced by counting the vote of Respondent No.7.

**SD/-  
(SURAJ GOVINDARAJ)  
JUDGE**

KTY  
List No.: 1 Sl No.: 124