
AIR 1997 Kar 383 : (1997) 3 KarLJ 94

Karnataka High Court

Case No: Writ Petition No. 2953 of 1997

District Muslim Welfare
and Education Society

APPELLANT

Vs

District Registrar of
Societies and others

RESPONDENT

Date of Decision: Feb. 5, 1997

Acts Referred:

Karnataka Societies Registration Act, 1960 " Section 25, 25 (1)

Citation: AIR 1997 Kar 383 : (1997) 3 KarLJ 94

Hon'ble Judges: G.C. Bharuka, J

Bench: Single Bench

Advocate: D.S. Hosmath, for the Appellant; N.K. Ramesh, H.C.G.P., for the Respondent

Judgement

@JUDGMENTTAG-ORDER

1. The petitioner is the Society registered under the provisions of the Karnataka Societies Registration Act, 1960, (for short "the Act"). It has

disputed the competence of the first respondent -- District Registrar to imitate an enquiry in terms of Section 25 of the Act, in respect of the

working and financial conditions of the petitioner society, which has been sought to be done under the order dt. 13-12-1996 (Ann. "C") at the

instance of the aggrieved staff of the educational institutions run by it.

2. It is not in dispute that the petitioner society has interalia established and administering two educational institutions, namely, Sri. Tippusultan Pre-

University College and Hazarath ""Dadakalami Arabic College, both situated at Hukkeri Taluk in Belgaum District. It appears that the Principals of

these institution have lodged complaints dt. 23-10-1996 with the District Registrar, making serious allegations of misappropriation of funds and mal

administration at the hands of Management of the Society, The District Registrar being prima facie satisfied about the genuineness of the allegations

invoked his suo motu powers to hold an enquiry in terms of Section 25 of the Act.

3. In an effort to defuse the said enquiry, it has been contended on behalf of the petitioner that in terms of Section 25 of the Act, no enquiry can be

initiated by the Registrar except on the application of the majority of the members of the governing body or of not less than 1/3 of the members of

the Society.

4. To appreciate the said contention, I would like to notice here under sub-section (1) of Section 25 of the Act, which is the only material provision

for the present. This reads as under --

SECTION 25. ENQUIRY BY THE REGISTRAR, ETC., --

(1) The Registrar may on his own motion and shall on the application of the majority 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.

5. A reading of the above provision makes it clear that an enquiry as contemplated in Section 25 is to be necessarily held, if an application to that

effect is filed by the majority of the members of the governing body or of not less than 1/3 of the members of the Society. But the Legislation at the

same time has vested the discretion in the Registrar to initiate such an enquiry on his own motion to enquire into the Constitution, working and

financial condition of a registered society. Such an exercise can be undertaken by the Registrar on his own motion only on the basis of some cogent

materials of that purpose. Therefore, for holding an enquiry on his own some information must come to his possession either from the external or

from the internal sources, which on an object appraisal may necessitate an enquiry as statutorily prescribed. Keeping in view the contention raised

on behalf of the petitioner, the question to be answered is, whether the complaints filed by the persons having knowledge about the affairs of the

registered society can at all form a basis empowering the Registrar to hold an enquiry on his own motion. In my opinion, the answer is to be in the

affirmative.

6. Some what similar contention had fallen for consideration before the Supreme Court in the case of the The Board of Revenue, Madras Vs. Raj

Brothers Agencies, . In this case the said question was raised in the context of Section 34(1) of the Madras General Sales Tax Act, 1959. This

provision conferred on the Board of Revenue the suo motu Power to call for and examine the order passed or proceedings recorded by the

appropriate authorities under some of the provisions of the said Act. In this case the Board had invoked its suo motu revisional jurisdiction on the

basis of the application filed by an assessee. It is in this background that one of the contention raised on behalf of the State before the Supreme

Court was that an assessee had no right to invoke the jurisdiction of the Board to exercise its revisional powers. The Court rejected the contention

by holding that (Para 6) --

This contention too has to be rejected. The power is conferred on the Board to remedy any injustice. It is open to an assessee or the Revenue to

bring to the notice of the Board any error made by the subordinate authorities. It is up to the Board to consider whether the case is a fit case for

exercising its revisional jurisdiction. If the Board had gone into the case and come to the conclusion that there was no justification for exercising its

jurisdiction u/s 34, then in the absence of any vitiating circumstance recognised by the law the High Court would not have interfered with the

discretion of the Board.

7. Drawing an analogy from what has been declared by the Supreme Court as a proposition of law with regard to exercise of suo motu powers by

statutory authorities, in the context of Section 25 as well, it can be authoritatively held that any person having dependable knowledge of the

working affairs of a registered society can bring to the notice of the Registrar the fact of the infirmities caused in the constitution, working and

financial condition of such a society. Thereafter, if the Registrar on examining the nature of the allegations and dependability of the information so

furnished and/or relying on other materials having in his possession can initiate an enquiry on his own motion. It has to be further held that such

initiation of an enquiry cannot be held to be without jurisdiction only because it has been founded it on certain informations furnished by the

persons, who have otherwise not been given a right to file an application before the Registrar for holding such an enquiry.

8. In the present case, except raising the objections here above noticed and raising certain pleas of defence on facts, the petitioner has not shown

any other vitiating circumstance recognised by law. which may warrant interference with the impugned order at Ann. "C", passed by first

respondent-District Registrar. Under such circumstances, I do not feel persuaded to grant any relief as claimed herein. The writ petition is

accordingly dismissed. No order as to costs.

9. Petition dismissed.