

KASM310091052024



**IN THE COURT OF II ADDITIONAL CIVIL JUDGE AND JMFC,
BHADRAVATHI**

:Present:

**Smt. Nasira Banu, B.A., (Law), LLB.
II Addl. Civil Judge and J.M.F.C.,
Bhadravathi.**

ORIGINAL SUIT NO.538/2024

Dated on this the 20th day of December, 2024

PLAINTIFF: Mahadevappa U,
S/o late Sri.Ugraiaha,
Aged about 46 years,
Assistant Teacher at Government
Urdu Lower primary School
at Siddnamatti, Bhadravathi Taluk
and Residing at 2nd Cross,
Surgithopu Paper Town,
Bhadravathi Town.

(By Sri.ANV., Advocate)

- Vs -

DEFENDANTS: 1.The Election Officer
Karnataka State Government
Employs Association (R)
having office at Basaveshwara
Circle, Bhadravathi.

2.Karnataka State Government
Employs Association (R)
Represented by its Present
President Having its office at
Basaveshwara Circle, Bhadravathi,
Shivamogga District.

3.Ranganath A S/o Anjanappa,
Aged about 40 years,
Assistant Teacher at Government

Urdu Lower Primary School
at Arahatholalu, Bhadravathi Taluk
and Residing at Veerabhadreshwara Nilaya,
Mysuru Keri, Purle, Shivamogga.

(D1 By Sri.MAR., Advocate)
(D2-3 By Sri.SK., Advocate)

PARTIES TO I.A.NO.II

Applicant : Mahadevappa
(Plaintiffs)

V/s.

Opponents : Election Officer and Others.
(Defendants 1 and 2)

1.	Provision of law	Section 151 of CPC.
2.	Relief	Stay.
3.	Date of filing of application	20.11.2024
4.	No. Of application	IA No.2.
5.	Date on which objection is filed	03.12.2024.
6.	Date of Order	20.12.2024.

ORDER ON IA NO.II

The counsel for plaintiffs has filed I.A.No.II Under Sec.151 of CPC seeking to pass an order of stay over operation and execution of result of president election of defendant organization held on 16.11.2024 till the disposal of suit.

2. In the affidavit filed in support of IA No.II, it is contended that the plaintiff filed this suit for the relief of declaration and injunction.

The plaintiff is paying membership fee regularly to the defendant No.2 Association. The Defendant No.1 is the Election Officer for the Election held in defendant No.2 Association dated 28.10.2024 for the post of Directors of Bhadravathi taluk. The 2nd defendant is branch office of 4th defendant. The main theme of said Association is the welfare of Karnataka Government Employees throughout state. The 3rd defendant is formal member of 2nd and 4th defendant organization and also an illegal contestant in the said election. The 3rd defendant secured 531 votes and he is the 3rd highest vote receiver among 9 contestants. The plaintiff is one of the contestant and secured 190 votes. One Smt.Nagarathnamma also secured 190 votes. The membership of 3rd defendant is ended since he had not paid membership fee for the year 2023. As per the bye-law of defendant organization the membership of 3rd defendant is automatically ended since he had not paid membership fee. Thus, the 3rd defendant was not a member of 2nd defendant as on the date of filing of nomination for the election held on 28.10.2024. As per norms the members have to pay membership fee continuously for 5 years that too in a stipulated mode. The 3rd defendant had not paid membership fee for the year 2023. Hence he is ineligible candidate to contest the election. The plaintiff made representation before defendant No.1 with regard to ineligibility of 3rd defendant. But, 1st defendant denied to reject the nomination filed by the 3rd defendant. Being aggrieved by the same the plaintiff submitted another letter to defendant

No.1. But, the defendant No.1 replied that the 3rd defendant has made payment through phone pay towards membership fee for the year 2023. The 3rd defendant has not obtained any approval from the 4th defendant to make payment through different channel. Hence, the membership of 3rd defendant is ended automatically. The 4th defendant ought to have deleted the name of defendant No.3 from the voter's list. All the efforts made by the plaintiff is rejected by the defendant No.1. The plaintiff is the victim of illegal participation of 3rd defendant in the election dated 28.10.2024. On 16.11.2024 the election was conducted for the post of President. Even though the 3rd defendant has not participated in the said election, the participation of 3rd defendant in the election for the post of Directors which was held on 28.10.2024 made the plaintiff to lose his opportunity to contest the election for the post of President. The plaintiff lost opportunity to cast vote in the election held on 16.11.2024. Hence, the plaintiff approached this Court. The Act of defendant is highly illegal and against to the law of natural justice. Hence, plaintiff prayed to allow the application.

3. The defendant No.1 to 3 appeared through their counsels. The defendant No.2 and 3 filed written statement along with memo adopting written statement as objection to IA No.2. The defendant denied plaintiff averments and contended that the plaintiff has not approached this court with clean hands. The suit of the plaintiff is not maintainable as election is completed and the plaintiff has not challenged the previous proceedings at

the initial stage. The plaintiff has participated in the election proceedings by admitting electoral list published by 4th defendant. The present suit is bad for non-joinder and misjoinder of parties. The plaintiff by misinterpreting Rule 6 to 8 of Byelaw has approached this Court. Once electoral list has been announced and members are called to submit their objections if any, the present plaintiff has not chosen to file any objections. Thereby he admitted electoral list. The plaintiff has no right to question the participation of 3rd defendant in the election. When the suit is not maintainable considering interim application is totally out of scope. Already elections have been completed and reliefs sought by the plaintiff became in-fructuous. There is no provision in the Byelaw to place double contest as per the relief (c) claimed by the plaintiff. He cannot represent Smt.Nagamma without arraying her as party to the suit. The 1st defendant passed reasoned order in accepting the nomination of defendant No.3. The functioning and proceedings of elected body cannot be stayed as claimed by the plaintiff. Being the defeated candidate and without challenging the election dated 28.10.2024 the plaintiff is not entitled for the relief claimed in the application. On these grounds prayed to dismiss the application with cost.

4. This Court heard the arguments of both sides. Perused entire records, in the facts and circumstances of the case the following points arise for consideration:

POINTS

- 1 *Whether the plaintiff has made out sufficient grounds so as to allow IA No.II?*
 - 2 *What order?*
5. This court findings to the above points are as follows:

Point No.1 : In the Negative

Point No.2 : As per the order below for the following:

REASONS

6. **Point No.1:** The plaintiff filed IA No.2 to pass an order of stay over operation and execution of result of president election dated 16.11.2024. The contention of plaintiff is that the defendant No.3 has not paid membership fee hence he is not entitled for contesting the election. The counsel for plaintiff relied upon several documents. The counsel for plaintiff argued that as per bye-law of the organization if member has not paid membership fee his membership will be automatically ended. The plaintiff produced bye-law of defendant organization. As per Rule 6(A) of Bye-law it is stated that if annual premium is not paid the membership will be automatically ended. But, Rule 6-B States that the member can pay annual premium and continue his membership with the previous permission of state president. The plaintiff produced salary slip of defendant No.3 for the year 2020, 2021, 2022 and 2024. The said documents show that defendant has paid annual premium for the year 2020, 2021, 2022 and 2024. But, the counsel for plaintiff argued that the defendant No.3 has not

paid premium for the year 2023, hence his membership is automatically ended. The UPI transaction produced by the plaintiff shows that the defendant No.3 paid Rs.400/- through UPI. The said payment can be seen even in the statement of account. The documents produced by the plaintiff shows that he filed objection before Election Officer and Election Officer has given reply by stating that the 3rd defendant has paid premium to the bank account. Hence, the election officer stated that the objection of plaintiff cannot be considered. Thus, prima facie it shows that as per bye-law the defendant No.3 continued his membership by paying premium. Whether the defendant No.3 obtained previous sanction or not is to be decided after full pledged trial. As could be seen from the records the election is already completed and even the president is elected to the defendant organization. At this stage the plaintiff is seeking to stay the execution and operation of result of President Election. As argued by counsel for defendant No.2 and 3 the plaintiff has not challenged the election dated 28.10.2024. On the other hand he prayed to declare that the announcement of 3rd defendant as highest voter is null and void and also prayed to declare that plaintiff and Smt.Nagarathnamma as highest joint vote receivers. However, said Smt. Nagarathnamma is not made as party to this suit. When election is already completed and president is also selected if the same is stayed the defendant will be put to hardship. Accordingly, application is liable to be dismissed. Hence, Point No.1 is answered in the

Negative.

7. **Point No.2:** In view of the foregoing observations and discussions, this court proceeds to pass the following:

ORDER

*I.A.No.II filed by the plaintiff Under
Section 151 of C.P.C is hereby dismissed.*

No order as to cost.

(Dictated to the Stenographer, transcribed and typed by her, taken print out, then corrected, signed and pronounced by me in the Open Court on this 20th day of December, 2024)

**(Nasira Banu)
II Addl. Civil Judge and JMFC,
Bhadravathi.**