

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS**

TUESDAY, THE 3RD DAY OF MARCH 2015/12TH PHALGUNA, 1936

WA.No. 1119 of 2013 (B) IN WP(C).30044/2011

**AGAINST THE ORDER/JUDGMENT IN WP(C) 30044/2013 of HIGH COURT OF KERALA
DATED 16-07-2013**

APPELLANT(S)/PETITIONER:

**RAJESH.P.R. AGED 37 YEARS,,
S/O.RAGHAVAN PILLAI, KUZHIYIL PUTHEN VEEDU, MANAKKARA
SASTHAMCOTTA P.O., KUNNATHOOR TALUK, KOLLAM.**

BY ADV. SRI.P.J.MATHEW

RESPONDENT(S)/RESPONDENTS:

- 1. THE JOINT REGISTRAR OF CO-OP.SOCIETIES
(GENERAL)
CO-OPERATIVE'S JOINT REGISTRAR'S (GENERAL) OFFICE
CIVIL STATION, KOLLAM-13.**
 - 2. THE SASTHAMCOTTA CO-OPERATIVE AGRICULTURAL AND RURAL
DEVELOPMENT BANK LTD.Q 373,
SASTHAMCOTTA P.O., KOLLAM
REP. BY ITS SECRETARY-690521.**
 - 3. THE SECRETARY,
THE SASTHAMCOTTA CO-OPERATIVE AGRICULTURAL AND RURAL
DEVELOPMENT BANK LTD.Q 373
SASTHAMCOTTA P.O., KOLLAM-690521.**
 - 4. SHANAVAS.A.,, AGED 40 YEARS
S/O.ABUBUCKER, SHANAVAS MANZIL, BHARANIKKAVU
SASTHAMCOTTA, KOLLAM DISTRICT-690521.**
 - 5. P.R.AJITH KUMAR,
S/O.RAGHAVAN PILLAI, PANATHAMPLAVIL VEEDU
MUTHUVULAKKAD PADINJARU, POOROORVAZHI P.O.-690521.**
 - 6. JOHNSON.J.,, AGED 35 YEARS
S/O.JOHN, VILAYIL PADINJATTETHIL, ERAVICHIRA
SOORANAD P.O., CHAKKUPALLI, KOLLAM DISTRICT-690521.**
- Addl.7. HARIKRISHNAN
S/O.KRISHNANKUTTY NAIR, PERUMANA VEEDU
SOORANADU SOUTH, PATHARAM.P.O.
KOLLAM DISTRICT. (PEON/WATCHMAN
THE SASTHAMCOTTA CO-OPERATIVE AGRICULTURAL AND RURAL
DEVELOPMENT BANK LTD.
Q 373, SASTHAMCOTTA.P.O., KOLLAM - 690521.)**

Addl.8. JYOTHI PARVATHI
CHACKANADU VEEDU, PARAKKODU.P.O., ADOOR
(PEON/WATCHMAN
THE SASTHAMCOTTA CO-OPERATIVE AGRICULTURAL AND RURAL
DEVELOPMENT BANK LTD.
Q 373, SASTHAMCOTTA.P.O., KOLLAM - 690521.)

Addl.9. SANOOJA.S.
THUNDIL VEEDU, PALLISSERIKKAL
SASTHAMCOTTA (PEON/WATCHMAN
THE SASTHAMCOTTA CO-OPERATIVE AGRICULTURAL AND RURAL
DEVELOPMENT BANK LTD.
Q 373, SASTHAMCOTTA.P.O., KOLLAM - 690521.)

Addl.10. SWAPNAPRIYA
SWAPNA NIVAS, MANAKKARA, SASTHAMCOTTA (PEON/WATCHMAN
THE SASTHAMCOTTA CO-OPERATIVE AGRICULTURAL AND RURAL
DEVELOPMENT BANK LTD.
Q 373, SASTHAMCOTTA.P.O., KOLLAM - 690521.)

Addl.11. KRISHNAKUMAR
SANATHANA MANDIRAM, PERIVELIKKARA.P.O., KARINTHOTTUVA
KUNNATHOOR TALUK (PEON/WATCHMAN
THE SASTHAMCOTTA CO-OPERATIVE AGRICULTURAL AND RURAL
DEVELOPMENT BANK LTD.
Q 373, SASTHAMCOTTA.P.O., KOLLAM - 690521.)

Addl.12. R.RAJEEV
LEKSHMI MANDIRAM, PERIVELIKKARA.P.O., KARINTHOTTUVA
KUNNATHOOR TALUK (PEON/WATCHMAN
THE SASTHAMCOTTA CO-OPERATIVE AGRICULTURAL AND RURAL
DEVELOPMENT BANK LTD.
Q 373, SASTHAMCOTTA.P.O., KOLLAM - 690521.)

Addl.13. PRIYA.L.
DEEPAM, MANAKKARA, SASTHAMCOTTA.P.O.
KOLLAM. (PEON/WATCHMAN
THE SASTHAMCOTTA CO-OPERATIVE AGRICULTURAL AND RURAL
DEVELOPMENT BANK LTD.
Q 373, SASTHAMCOTTA.P.O., KOLLAM - 690521.)

(ADDL. R7 TO R13 ARE IMPEADED AS PER ORDER DATED 31/03/2014 IN IA
348/2014.)

R2,R3 BY ADV. SRI.P.SANTHALINGAM (SR.)
R2,R3 BY ADV. SRI.S.SHARAN
RADDL.7,R8 & 9,R 10 BY ADV. SRI.P.N.MOHANAN
R11-R13 BY ADV. SMT.JESSY S.SALIM
R4 -R 6 BY ADV. SRI.AJITH GEORGE
BY SR GOVERNMENT PLEADER SRI.M.K.ABOOBACKER

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 03-03-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC & ALEXANDER THOMAS, JJ.
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Writ Appeal No. 1119 of 2013
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Dated this the 3rd day of March, 2015

J U D G M E N T

Antony Dominic, J.

Petitioner in WP(C) No.30044/11 is the appellant. He filed the writ petition mainly challenging Ext.P5, a notification issued by the respondent Bank for appointment to the post of Peon/Watchman and the further steps taken by the Bank to appoint candidates on that basis. By the judgment under appeal, the learned single Judge dismissed the writ petition. It is this judgment which is under challenge before us.

2. We heard the learned counsel for the appellant, learned Government Pleader appearing for the 1st respondent, learned counsel appearing for respondents 2 and 3 and the learned counsel appearing for respondents 7 to 10.

3. Before us, the contention raised by the learned counsel for the appellant was that pursuant to Ext.P5 notification, the Bank appointed an outside agency to conduct the written test. It is stated that the outside agency conducted the written test and on conclusion thereof, forwarded the marklist and answer sheets to the

Board of Directors of the Bank. It is stated that on that basis the Board of Directors conducted an interview and selected and appointed four persons. According to the learned counsel, such selection and appointment made is in violation of the provisions contained in Rule 182(4) of the Kerala Co-operative Societies Rules and therefore the learned single Judge erred in dismissing the writ petition.

4. Having considered the submissions made, we confess our inability to accept the said contention. Rule 182(4) and Rule 182(5) being relevant in the context of this case read as under:

“182(4) In respect of recruitment to societies covered by Section 80B of the Act, the following procedure shall be followed:-

(i) The Society shall report the vacancy to the Co-operative Service Examination Board and the applications for appointment shall be invited by the Co-operative Service Examination Board, by notification in two vernacular dailies, having wide circulation in the area. The notification shall include the details of number of vacancies, qualifications required for the post, age and reservation, if any, the mode of application, method of appointment and other required details. The Co-operative Service

Examination Board may collect application fee along with the application at the rate fixed by the Registrar of Co-operative Societies from time to time. The Examination Board shall process the applications and prepare the list of candidates to be called for the written test. One copy of the prepared list shall be published in the notice Board of the Examination Board and one copy shall be sent to the society for publication in its notice board. The society shall publish it in the notice board and copies thereof in the branch offices of the society. The arrangements for the written test shall be made by the Examination Board.

(ii) The Examination Board shall conduct the written examination of the candidates and furnish a list of eligible candidates to be interviewed to the committee of the society within a period of three months from the date of requisition by the society. The list so furnished shall not contain the mark secured by the candidates.

(iii) The maximum marks for written examination shall be 80 and those who secure 40% of the marks shall only be eligible to be included in the list for interview.

[Provided that in case of candidates belonging to Scheduled Caste or Scheduled Tribe, those who

secure 30% of marks and above shall be included in the list]

[Provided further that the total number of candidates to be called for interview shall be ten times the number of posts advertised to be filled up in each category, if there are more candidates who secured not less than forty per cent marks in the written examination and if the candidate who secured forty per cent or above marks are less than ten times as above, all of the candidates shall be called for interview]

(iv) The maximum marks for interview shall be 15.

[Provided that the minimum marks for interview shall be 3].

[(iv A) Candidates of home district shall be awarded 5 marks over and above the marks for interview as grace marks.

Explanation:- For the purpose of this item, candidates of home district means the candidates belonging to the district or districts to which the area of operation of the society extends].

(v) On receipt of the list from the Examination Board, the committee shall conduct interview of the candidates within two months from the date of such receipt and return the list to the Examination Board noting the marks secured by

each candidates, in the interview within a period of two weeks.

(vi) On receipt of the list from the society, the Examination Board shall note down the marks secured by each of the candidate in written examination and return consolidated list with the total marks obtained by each candidate. This shall be done within a period of one week.

(vii) On the basis of the consolidated list so received from the Examination Board, the committee shall prepare the rank list of candidates and publish the same in the notice board of the society within a period of twenty days from the date of receipt of such consolidated mark list. The society shall send one copy of the rank list so published to the Examination Board also. The Board shall examine the correctness of such rank list and report to the Registrar, the irregularities, if any. The list shall be valid for a period of two years from the date of publication of the same by the society.

(viii) All appointments to the vacancies shall be made by the committee from the select list so published within one month from the date of such publication and shall be reported to the Examination Board.

(ix) Expenses, if any, incurred over and above the fees collected by the Examination Board, shall be borne by the society concerned.

(5) In respect of societies and posts not covered by Section 80(3)(A) and Section 80B of the Act, the appointments shall be made by the committee after conducting the written examination and interview as per the guidelines issued by the Registrar."

Reading of Rule 182(4) shows that the said rule can apply only in respect of recruitment by the Co-operative Service Examination Board. Admittedly, the post covered by Ext.P5 notification were outside the purview of the Board and if so, Rule 182(4) has no application.

5. On the other hand, what is relevant is sub rule (5). Reading of the sub rule shows that the recruitments, to which the said sub rule is applicable, have to be conducted in terms of the guidelines issued by the Registrar. The relevant circular issued by the Registrar is Circular No.79/11 dated 9/11/11. Reading of the circular shows that the circular does not incorporate a provision similar to those contained in Rule 182(4) in the circular. If that be so, even if it is assumed that factually the answer papers and the

marks were communicated to the Board of Directors, that by itself cannot vitiate the selection process. In such circumstances, we do not find any force in the contention raised.

Appeal lacks merit and is accordingly dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**ALEXANDER THOMAS
JUDGE**

Rp

//True Copy//

PA to Judge