

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C) No. 1072 of 2009 (C)

PETITIONER :-

**TRICHUR WHOLESALE CO-OPERATIVE
CONSUMER STORES LIMITED NO. R. 239,
TRICHUR -1, REPRESENTED BY ITS
MANAGING DIRECTOR IN CHARGE.**

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS :-

- 1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT,
DEPARTMENT OF CO-OPERATION,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.**
- 2. THE ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETIES, OFFICE OF THE ASSISTANT REGISTRAR
OF CO-OPERATIVE SOCIETIES (GENERAL), THRISSUR.**
- 3. THE DEPUTY TAHSILDAR (RR), THRISSUR.**

R BY SRI.SOJAN JAMES, SENIOR GOVERNMENT PLEADER

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER(S)' EXHIBITS :-

**EXHIBIT P1 : TRUE COPY OF ORDER DATED 05.01.1994 ISSUED BY THE 1ST
RESPONDENT.**

**EXHIBIT P2 : TRUE COPY OF ORDER DATED 05.01.1994 ISSUED BY THE 1ST
RESPONDENT.**

**EXHIBIT P3 : TRUE COPY OF GO DATED 18.03.1994 ISSUED BY THE 1ST
RESPONDENT.**

**EXHIBIT P4 : TRUE COPY OF REQUEST DATED 22.02.2003 SUBMITTED BY THE
PETITIONER BEFORE THE 1ST RESPONDENT.**

**EXHIBIT P5 : TRUE COPY OF NOTICE DATED 22.12.2008 ISSUED BY THE 3RD
RESPONDENT.**

RESPONDENT(S)' EXHIBITS :- NIL

//TRUE COPY//

P.A. TO JUDGE

rkj

C.K. ABDUL REHIM, J.

W.P.(C)No.1072 of 2009

Dated this the 15th of January, 2015

JUDGMENT

The petitioner is a Co-operative society established in the year 1963, functioning of which had landed in a severe financial crisis. In Ext.P1, the Government have formulated a scheme for revival of 9 similarly situated Co-operative Societies, including the petitioner society. On the basis of Ext.P2, the 1st respondent had declared moratorium in repayment of loans availed towards share capital for a period of 10 years and permitting the petitioner society to repay the amounts due in instalments. But immediately thereafter the said order was withdrawn by the 1st respondent through Ext.P3 proceedings, stating that it is not in accordance with the Regulations formulated earlier. Aggrieved by Ext.P3, the petitioner society submitted a detailed representation before the Government, as evidenced from Ext.P4. But without considering the same,

recovery steps was initiated and a notice under Section 7 of the Revenue Recovery Act was issued, as evidenced from Ext.P5. It is challenging Exts.P3 and P5 this writ petition is filed.

2. When the above writ petition came up for admission on 14/01/2009, this court granted an interim stay against enforcement of Ext.P5 till consideration and disposal of Ext.P4 representation. Specific direction was issued to the 1st respondent to consider Ext.P4 within four months and to place its decision before this court. Despite such a direction issued as early as in the year 2009, learned Government Pleader appearing on behalf of the respondents is not in a position to submit as to whether any decision was taken by the Government on considering Ext.P4 representation.

3. Considering factual circumstances prevailing as narrated above, this court is of the opinion that it is for the Government to take an appropriate decision with respect to realisation of the amounts advanced to the

petitioner society, taking note of the overall situation and financial conditions of the society and also taking note of the present scenario with respect to functioning of its activities. A direction to the Government to consider the matter based on Ext.P4 representation and to take an appropriate decision, if not already taken, would suffice to meet the ends of justice.

4. Therefore this writ petition is disposed of by making the interim order absolute. The 1st respondent is directed to consider Ext.P4 and to take an appropriate decision on the question of proceeding with recovery steps pursuant to Ext.P5, if necessary after obtaining report from the authorities of the co-operative department concerned, and after affording opportunity of personal hearing to the petitioner society. If no decision has already taken on Ext.P4, the matter shall be dealt with urgently and an appropriate decision in accordance with the directions contained hereinabove shall be taken at the earliest, at any rate within a period of three months from

the date of receipt of copy of this judgment.

5. Till such time the Government takes a decision in accordance with the directions issued above, no coercive steps of recovery based on Ext.P5 shall be proceeded against the petitioner society.

**Sd/-C.K. ABDUL REHIM
JUDGE**

MJL