

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 15TH DAY OF JUNE 2015/25TH JYAISHTA, 1937

WP(C).No. 2450 of 2012 (E)

PETITIONERS:

1. CALICUT CO-OPERATIVE FARMS/FEEDS &
AGRO INDUSTRIAL SERVICE SOCIETY LTD. NO. D.2382
P.O.MEDICAL COLLEGE, KOVOOR, KOZHIKODE-673008
REPRESENTED BY ITS HONORARY SECRETARY.

2. BOARD OF DIRECTORS,
CALICUT CO-OPERATIVE FARMS/FEEDS & AGRO
INDUSTRIAL SERVICE SOCIETY LTD. NO. D.2382
P.O.MEDICAL COLLEGE, KOVOOR, KOZHIKODE-673008
REPRESENTED BY ITS PRESIDENT

BY ADVS.SRI.M.M.MONAYE
SRI.M.PAUL VARGHESE

RESPONDENTS:

1. JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL),
KOZHIKODE DISTRICT, PUTHIYARA, KOZHIKODE-673004.

2. ASSISTANT REGISTRAR OF
CO-OPERATIVE SOCIETIES, KOZHIKODE
OFFICE OF JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES (GENERAL)
PUTHIYARA, KOZHIKODE-673004.

3. STATE OF KERALA
REPRESENTED BY ITS SECRETARY TO GOVERNMENT
DEPARTMENT OF CO-OPERATION, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695001.

SRI.RAFEEK V.K., GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
15-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

APPENDIX

PETITIONERS' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE ORDER DT.22-5-2009 OF R1.

EXHIBIT P2: TRUE COPY OF THE RELEVANT PAGES OF THE BYE-LAWS OF THE SOCIETY.

EXHIBIT P3: TRUE COPY OF THE LETTER ALONG WITH THE RESOLUTION NO.1 DT.29-10-2009.

EXHIBIT P4: TRUE COPY OF THE LETTER ALONG WITH THE RESOLUTION DATED 25-3-2010.

EXHIBIT P5: TRUE COPY OF THE CERTIFICATE DATED 5-1-2011 ISSUED BY R2.

EXHIBIT P6: TRUE COPY OF THE ORDER DATED 22-11-2010 OF R1.

EXHIBIT P7: TRUE COPY OF THE ORDER DATED 27-5-2011 OF R1

EXHIBIT P8: TRUE COPY OF THE ORDER DATED 4-6-2011 OF R1.

EXHIBIT P9: TRUE COPY OF THE REPLY DT.28-10-2011 GIVEN TO THE R1 BY THE PRESIDENT OF THE SOCIETY.

EXHIBIT P10: TRUE COPY OF THE ORDER NO.ST/2959/11 DT.4-1-2012 OF R1.

EXHIBIT P11: TRUE COPY OF ORDER DT.3-9-2011 ISSUED BY R1.

EXHIBIT P12: TRUE COPY OF THE INTERIM ORDER DATED 14-10-2011 IN WPC 26084/2011(I).

EXHIBIT P13: TRUE COPY OF THE DEMANDED AND REGISTERED BYE-LAW CLAUSES ALONG WITH THE CERTIFICATE OF REGISTRATION AND THE COVERING LETTER DATED 5.7.2013 ISSUED BY THE 1ST RESPONDENT JOINT REGISTRAR.

RESPONDENTS' EXHIBITS : NIL

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TRUE COPY

PA TO JUDGE

P.V.ASHA, J.

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Dated this the 15th day of June, 2015

JUDGMENT

The petitioners challenge Ext.P10 proceedings by which the Joint Registrar of Co-operative Societies, Calicut has directed enquiry under section 65 of the Co-operative Societies Act, 1969 into the affairs of the first petitioner society. The 1st reason stated for directing the enquiry under section 65 is with respect to the changes effected in the functioning of the office without any permission. The 2nd reason stated is that the explanation furnished by the society in respect of the notice issued on 21.8.2010 regarding the expenditure of a sum of Rs.7,76,986/- from the funds was not found satisfactory.

2. The petitioners state that the bye-laws of the society was amended and it was registered. The petitioners have produced the amended clause of the bye-law, as registered along with the Certificate of Registration issued by the 1st respondent Joint Registrar, as Ext.P13, in I.A.No.6766 of 2015. It shows that the bye laws have been amended in the general body meeting held

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on 31.12.2011 by which the name of the society was changed as Calicut Co-operative Farms/Feeds and Agro Industrial Service Society (Ltd.) No.D-2382 with its registered office at Medical College P.O., Kozhikkode Taluk in Kozhikode District. It is contended that as per resolution No.4 in Ext.P4, which is the minutes of the committee meeting held on 25.3.2010, a decision was taken for getting permission from the Joint Registrar of Co-operative Societies to meet the expenditure to the tune of ₹2,58,636/- from the general fund, for the purpose of renovation of office, decoration furniture fittings, computerisation etc. They have also contended that in view of Ext.P13 as well as Ext.P4 decision of the committee, the enquiry ordered under section 65 is on factually incorrect state of affairs and hence unnecessary.

3. I heard the learned counsel appearing on either side.

4. In view of the amendment carried out in the bye laws, as seen from Ext.P13, and in the light of Ext.P4 decision of the committee, it is evident that the enquiry ordered under section 65 is on erroneous assumption of factual circumstances.

5. It is seen that the Co-operative Society has already

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moved for necessary permission for incurring expenditure for renovation of the office. In view of the circumstances stated above, there is no reason to proceed further on the basis of Ext.P10.

In the circumstances of the case, Ext P10 is quashed and the 1st respondent is directed to re-consider the issue with reference to the amendment Ext.P13 as well as the request made based on Ext.P4 .

This writ petition is disposed of accordingly.

Sd/-
P.V.ASHA,
JUDGE.

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