

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No. 617 of 2015 (B)

PETITIONER:

M.M.BASHEER, MANAGING COMMITTEE MEMBER,
NEMOM HANDLOOM WEAVERS CO-OPERATIVE SOCIETY
LTD. NO. H.68, NEMOM P.O., THIRUVANANTHAPURAM.

BY ADVS. SRI. M. RAJAGOPALAN NAIR
SRI. G. BIJU

RESPONDENTS:

1. THE KERALA STATE CO-OPERATIVE ELECTION COMMISSION,
CO-BANK TOWERS, VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM.
2. THE ELECTORAL OFFICER, KERALA STATE HANDLOOM
WEAVERS CO-OPERATIVE SOCIETY LTD. NO. H 232,
P.B. NO. 64, THIRUVANANTHAPURAM-1
(GENERAL MANAGER, DISTRICT INDUSTRIES CENTER,
THIRUVANANTHAPURAM).
3. THE RETURNING OFFICER, KERALA STATE HANDLOOM
WEAVERS CO-OPERATIVE SOCIETY LTD. NO. H. 232,
P.B. NO. 64, THIRUVANANTHAPURAM - 1
(DEPUTY REGISTRAR, DISTRICT INDUSTRIES CENTER,
THIRUVANANTHAPURAM).
4. THE KERALA STATE HANDLOOM WEAVERS CO-OPERATIVE
SOCIETY LTD. NO. H. 232, REPRESENTED BY ITS
MANAGING DIRECTOR, P.B. NO. 64, THIRUVANANTHAPURAM-1.

BY SPECIAL GOVERNMENT PLEADER SRI. D. SOMASUNDARAM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1 : TRUE COPY OF THE BYE-LAWS OF THE FOURTH RESPONDENT SOCIETY.
- EXHIBIT P2 : TRUE COPY OF THE ELECTION NOTIFICATION.
- EXHIBIT P3 : TRUE COPY OF THE FINAL VOTERS LIST PUBLISHED BY THE 2ND RESPONDENT.
- EXHIBIT P4 : TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY DIRECTOR OF HANDLOOMS IN WP(C) NO. 4174/2010
- EXHIBIT P5 : TRUE COPY OF THE WRITTEN STATEMENT FILED BY THE RETURNING OFFICER IN 2010 ELECTION.
- EXHIBIT P6 : TRUE COPY OF THE JUDGMENT DATED 14.07.2010 IN W.A. NO. 1167/2010
- EXHIBIT P7 : TRUE COPY OF THE RELEVANT PORTION OF THE AMENDMENT MADE TO THE RULES.
- EXHIBIT P8 : TRUE COPY OF THE REPRESENTATION SENT TO RESPONDENTS 1 TO 4 DATED 02.01.2015.

RESPONDENT(S) EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 8th day of January, 2015

JUDGMENT

Ext.P2 election notification was issued as early as on 18.12.2014. The election is slated on 19.12.2014 and it will be inequitable to interfere with the process. Two contentions are raised by the writ petitioner principally. The first relates to the non adherence to Rule 35 A(4) of the Kerala Co-operative Societies Rules. The Special Government Pleader makes available a copy of the notification dated 22.01.2013 exempting Central or Apex societies from the purview of Rule 35A(4) of the Rules. The challenge to the voters list on the basis of infraction Rule 35A(4) of the Rules falls to the ground.

2. The next ground alleged is as regards infraction of Rule 44 A of the Kerala Co-operative Societies Rules. It is only the apprehension of the petitioner that persons who are not managing committee members would cast their vote. The petitioner is free to raise this ground in an election petition filed later. Whether the voters list is in accord with Rule 18A of the

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Kerala Co-operative Societies Rules can also been urged in the election petition.

3. The Supreme Court in **Shri. Sant Sadguru Janardan Swami (Moingiri Maharaj) Shahakari Dugdha Utpadak Sanstha and another Vs. State of Maharashtra and another [(2001) 8 SCC 509]** has deprecated the practice of tinkering with the election process in writ jurisdiction.

I therefore dismiss this writ petition without prejudice to the right of the petitioner to urge all available grounds in an election petition if any filed.

**V. CHITAMBARESH
JUDGE**

ncd