

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).No. 3904 of 2014 (K)

PETITIONER:

SHANOJ.N.M., NAMBOORI MADATHIL,
PAYYOLI P.O., VATAKARA PIN-673 524.

BY ADV. SRI.P.P.JACOB

RESPONDENTS:

1. THE PAYYOLI CO-OPERATIVE URBAN BANK LTD.NO.F 1354,
P.B.NO.1, PAYYOLI P.O., KOZHIKODE-673 522
REPRESENTED BY ITS GENERAL MANAGER.
2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G)
KOZHIKODE, OFFICE OF THE JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES, PUTHIYARA, KOZHIKODE-673 004.
3. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO SOCIAL WELFARE (A)DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
4. SANTHOSH KUMAR K.T., PEON/WATCHMAN,
PAYYOLI CO-OPERATIVE URBAN BANK LTD.NO.F.1354
P.B.NO.1, PAYYOLI P.O., KOZHIKODE-673 522.
5. SASI K.K., PEON/WATCHMAN, PAYYOLI
CO-OPERATIVE URBAN BANK LTD.NO.F.1354
P.B.NO.1, PAYYOLI P.O., KOZHIKODE-673 522.
6. PRAJESHKUMAR N., PEON/WATCHMAN,
PAYYOLI CO-OPERATIVE URBAN BANK LTD.NO.F.1354,
P.B.NO.1, PAYYOLI P.O., KOZHIKODE-673 522.
7. NAJUMA, W/O. MUSTHAFFA, SONITHAM, PEON/WATCHMAN
PAYYOLI CO-OPERATIVE URBAN BANK LTD.NO.F.1354
P.B.NO.1, PAYYOLI P.O., KOZHIKODE-673 522.
8. SHINJITH, S/O. KRISHNAN, PEON/WATCHMAN,
KOLAPPANARI HOUSE, PAYYOLI P.O.,
KOZHIKODE-673 522.

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Addl.9. THE CO-OPERATIVE SERVICE EXAMINATION BOARD
STATE CO-OPERATIVE BANK BUILDING, OVER BRIDGE
GENERAL POST OFFICE, THIRUVANANTHAPURAM -695 001
REPRESENTED BY ITS SECRETARY.

ADDL. R9 IS IMPEADED AS PER ORDER DATED 07/08/2014 IN IA 7694/2014.

R1 BY ADV. SRI.P.N.MOHANAN

R4-R6 BY ADV. SRI.BABU CHERUKARA

R4-R6 BY ADV. SRI.S.RUSSEL

R4-R6 BY ADV. SRI.V.R.ARUN

R7 & 8 BY ADV. SRI.D.SREEKUMAR

ADDL.R9 BY ADV. SMT.RASHMI. K.V., SC, CO.OP. SERVICE EXAMINATION BOARD
BY SPECIAL GOVERNMENT PLEADER SRI. D. SOMASUNDARAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13-03-2015,
ALONG WITH WPC. 20979/2013, WPC. 31793/2013, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 : COPY OF THE DISABILITY CERTIFICATE ISSUED BY THE DEPARTMENT OF HEALTH SERVICES DTD.16.6.2012 TO THE PETITIONER.
- EXHIBIT P2 : COPY OF THE ORDER ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER DTD.17.11.2011.
- EXHIBIT P3 : COPY OF THE NOTIFICATION DTD.27.5.2013 PUBLISHED IN MATHRUBHUMI DAILY DTD.30.5.2013 BY THE 1ST RESPONDENT.
- EXHIBIT P4 : COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DTD.15.6.2013.
- EXHIBIT P5 : COPY OF THE LETTER OF INTERVIEW DTD.7.8.2013 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.
- EXHIBIT P6 : COPY OF THE NOTIFICATION DTD.12.9.2013 ISSUED BY THE 1ST RESPONDENT PUBLISHED IN KAUMUDI DAILY DTD.15.9.2013.
- EXHIBIT P7 : COPY OF THE REPORT FILED BY THE ASSISTANT REGISTRAR (G), QUILANDY, DTD.19.9.2013.
- EXHIBIT P8 : COPY OF THE ORDER DTD.28.11.2013 ISSUED BY 2ND RESPONDENT DTD.28.11.2013.
- EXHIBIT P9 : COPY OF THE RANK LIST PREPARED BY CO-OPERATIVE SERVICE EXAMINATION BOARD.

RESPONDENT(S)' EXHIBITS :

- EXHIBIT R1(a) : A TRUE COPY OF THE CIRCULAR NO. 54/2011 DATED 14.07.2011.
- EXHIBIT R8A : TRUE COPY OF RESOLUTION DATED 11.09.2013 PASSED BY THE PAYYOLI CO-OPERATIVE URBAN BANK LTD.

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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20979 OF 2013 & 31793 OF 2013**

Dated this the 13th day of March, 2015

JUDGMENT

Circular Nos. 54/2011 issued by the Registrar of Co-operative Societies provides for reservation of three percent in appointment for differently abled persons. The specific allegation is that the said circular was not adhered to by the Payyoli Co-operative Urban Bank Ltd. in the matter of appointment. Such circulars have statutory force as held in **Akalakkunnam village Service Co-operative Bank Ltd. Vs. Binu V. [ILR 2014(4) Ker. 605]**.

2. The Joint Registrar of Co-operative Societies was moved in this regard by the persons aggrieved relying on circular No. 54/2011. The Joint Registrar has the jurisdiction to see whether such statutory circulars have been flouted under Section 66A of the Kerala Co-operative Societies Act, 1969. The Joint Registrar has in the instant case rescinded resolution Nos. 2 dated 25.03.2013 and 17 dated 24.08.2013 deciding to give appointment to three other persons. The jurisdiction under Rule

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176 of the Kerala Cooperative Societies Rules is evidently invoked.

3. Whether the statutory circular has been flouted and the resolutions deserve to be rescinded involves adjudication of many factual disputes. The order of the Joint Registrar dated 28.11.2013 can therefore be challenged in a statutory appeal. An appeal lies under Section 83(1)(j) of the Kerala Co-operative Societies Act. The appointees can also be put on notice and heard in the exercise.

4. Any appeal filed within one month from today shall be dealt with by the government within two months therefrom. The complainants as well as the alleged appointees and also the bank shall be made parties to the appeal. The status quo as on today shall continue till the statutory appeal is disposed of. The order dated 28.11.2013 of the Joint Registrar is liable to be implemented if no statutory appeal is filed by any party within the time permitted.

The Writ Petitions are disposed of. No costs.

**V. CHITAMBARESH
JUDGE**