

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 8566 of 2014 (U)

PETITIONER:

N.K. BABU, S/O.KUMARAN,
NIRAPPEL HOUSE, ELIKKULAM P.O.,
KOTTAYAM DISTRICT.

RESPONDENTS:

1. THE ELIKKULAM SERVICE CO-OPERATIVE
BANK LTD. NO. 158, MADUKKAKUNNU P.O.
KOTTAYAM DISTRICT, REPRESENTED BY
THE SECRETARY 686 577.
- 2.THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL)
KOTTAYAM DISTRICT, PIN: 686 001.
3. THE STATE OF KERALA, SECRETARY TO
THE CO-OPERATIVE DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM 695 001.

BY ADV. SRI.LIJI.J.VADAKEDOM

R1 BY ADV. SRI.A.ANTONY
R1 BY ADV. SMT.LEELAMMA ANTONY
BY GOVERNMENT PLEADER SRI. S. JAMAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: THE COPY OF THE REPRESENTATION DATED 20/09/2012 SUBMITTED BY THE PETITIONER.
- EXT.P2: THE COPY OF THE JUDGMENT DATED 7/12/2012 IN WPC 28927/2012 BEFORE THIS HONOURABLE COURT.
- EXT.P3: THE COPY OF THE ORDER IN G.O.(RT) 586/2013/CO-OP. DATED 10/9/2013 ISSUED BY THE 3RD RESPONDENT.
- EXT.P4: THE COPY OF THE COMMUNICATION DATEED 18/10/2013 SUBMITTED BY THE 2ND RESPONDENT TO THE PETITIONER.
- EXT.P5: THE COPY OF THE APPLICATION DATED 4/11/2013 SUBMITTED BY THE PETITIONER UNDER THE RIGHT TO INFORMATION ACT.

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 22nd day of January, 2015

JUDGMENT

The failure of the Committee of a Society to remove ineligible members under Rule 16(3) of the Kerala Co-operative Societies Rules, 1969 ('the Rules' for short) will empower a member to move the Joint Registrar for the purpose by a representation under Rule 16(4) of the Rules.

2. It is on the said premise did the petitioner file Ext.P1 representation before the second respondent Joint Registrar alleging that about 1650 ineligible members have not been removed. It is stated that the second respondent issued notice to these 1650 members by registered post acknowledgment due for which about ₹42,900/- was expended.

3. It is conceded that the second respondent has not taken the proceedings launched by Ext.P1 representation to a logical end after finding whether these 1650 members are ineligible to continue as such or not. It was preposterous therefore for the third respondent State to have directed the

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recovery of ₹42,900/- from the petitioner at this stage by Ext.P3 order.

4. Ext.P3 order was passed by the first respondent on 10.09.2013 followed by Ext.P4 order by the second respondent on 18.10.2013 and the writ petition was filed soon after on 24.03.2014. I am not prepared to non suit the petitioner on the ground of delay since the impugned orders suffer from patent illegality and saddles a member with a liability for having moved a statutory representation.

5. I quash Exts.P3 and P4 orders making it clear that the amount spent on enquiry can be saddled later on the petitioner or the first respondent bank dependent on its outcome. The petitioner can be saddled with the liability only if the allegations in Ext.P1 representation regarding the infraction of Rule 16 of the Rules is wholly unfounded and totally bereft of any bonafides.

The Writ Petition is allowed. No costs.

**V. CHITAMBARESH
JUDGE**

ncd