

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

MONDAY, THE 5TH DAY OF JANUARY 2015/15TH POUSHA, 1936

WP(C).No. 10377 of 2014 (V)

PETITIONERS:

1. SAMOOHYA KSHEMA CO-OPERATIVE SOCIETY LTD.
NO.E 779, REPRESENTED BY ITS SECRETARY,
NANDYATTUKUNNAM, NORTH PARAVUR,
ERNAKULAM DISTRICT.
2. THE BOARD OF DIRECTORS OF THE SAMOOHYA KSHEMA
CO-OPERATIVE SOCIETY LTD. NO.E 779,
REPRESENTED BY ITS PRESIDENT, NANDYATTUKUNNAM,
NORTH PARAVUR, ERNAKULAM DISTRICT.

BY ADVS. SRI. V.G. ARUN
SRI. T.R. HARIKUMAR

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
CO-OPERATION (C) DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM- PIN 695 001.
2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM PIN 695 001.
3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
(GENERAL), ERNAKULAM, ERNAKULAM DISTRICT PIN 682 030
4. K.P.BEENA, W/O.VIJAYAN, NANDYATTUKUNNAM,
NORTH PARAVUR, ERNAKULAM DISTRICT 683 513.

R4 BY ADV. SRI. A. JAYASANKAR
R4 BY ADV. SRI. C.V. MANUVILSAN
R4 BY ADV. SRI. MANU GOVIND
R1-R3 BY GOVERNMENT PLEADER SRI. P. FAZIL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 A TRUE COPY OF THE RELEVANT PAGES OF THE BYELAW SHOWING THE OBJECTIVES OF THE SOCIETY
- EXHIBIT P2 A TRUE COPY OF THE GO(P)(NO.220/05 CO-OP.DATED 23/5/2005
- EXHIBIT P3 A TRUE COPY OF THE BOARD RESOLUTION NO.139 DATED 5/2/2007 OF THE IST PETITIONER
- EXHIBIT P4 A TRUE COPY OF THE LETTER SUBMITTED BY THE IST PETITIONER BEFORE THE 2ND RESPONDENT DATED 18/7/2008 ALONG WITH ENCLOSURES
- EXHIBIT P5 A TRUE COPY OF THE BOARD RESOLUTION NO.52 DATED 3/8/2010 OF THE IST PETITIONER
- EXHIBIT P6 A TRUE COPY OF THE JUDGMENT DATED 8/10/2012 IN WPC NO.21881/2012
- EXHIBIT P7 A TRUE COPY OF THE ORDER NO. HM8550/2012/K.DIS. DATED 20.01.2013 OF THE 3RD RESPONDENT
- EXHIBIT P8 A TRUE COPY OF THE STATEMENT 7/11/2013 FILED BY THE PETITIONERS IN APPEAL NO. 11157/PS2/2013/CO-OP.
- EXHIBIT P9 A TRUE COPY OF THE ORDER GO(ORD)NO.120/2014/CO-OP DATED 10/2/2014

RESPONDENT(S)' EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 5th day of January, 2015

JUDGMENT

The grounds under which exemption could be granted to a Co-operative Society from implementing the pay revision scale are the following:

- (i) Working condition of the Society.
- (ii) Financial stability of the Society.

This is evident from clause 20 of Ext.P2 circular issued by the government.

2. The first petitioner Society has been running on profit for the years 2000-09 and 2010-11. The particulars of the audited balance sheet have been extracted in the counter affidavit of the fourth respondent. The counter affidavit also reveals that another person has been appointed as the Secretary on consolidated salary of ₹10,000/- per month on the retirement of the fourth respondent on 31.12.2010. It can safely be concluded therefore that the Society is working properly and has also financial stability.

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3. Ext.P9 order passed in appeal directing the pay revision benefits to be extended to the fourth respondent cannot be faulted with. I should note that only the pay revision effected in the year 2004 has been directed to be implemented and the benefits of the pay revision for the year 2009 has been denied. All the relevant inputs have been taken into consideration in Ext.P9 order passed by the first respondent on the appeal filed by the fourth respondent.

4. The petitioners contend that Ext.P3 resolution, Ext.P4 letter and Ext.P5 resolution have been forwarded to the second respondent long back. These pertain to the exemption from pay revision for the years 2004 and 2009. The petitioners do not appear to have followed up the resolutions seeking urgent orders on exemption. I however direct the second respondent to consider Exts.P3, P4 and P5 on merit with notice to the parties. The needful shall be done within a period of three months from the date of receipt of a copy of this judgment. The same shall be done untrammelled by any observation contained in the orders impugned or in this judgment.

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5. More than four years have elapsed since the fourth respondent has retired from service. Only the benefits of the pay revision of the year 2004 have been extended to her in Ext.P9 order. I do not find any illegality in Ext.P9 order when the first petitioner Society is working properly and financially stable. I do not therefore propose to interfere with Ext.P9 order passed in appeal at this juncture.

The Writ Petition is disposed of. No costs.

**V. CHITAMBARESH
JUDGE**

ncd