IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(C).No. 10821 of 2015 (C)

PETITIONERS:
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1. JOSEPH CHACKO,
CHOZHAMCHERIL, THALAYOLAPARAMBU P.O., VADAYAR,
KOTTAYAM-686 605.

2. SANU SAGAR,
CHIRAYIL, CHEMMANATHUKARA P.O., VAIKOM,
KOTTAYAM.

BY ADV. SRI.P.N.MOHANAN

RESPONDENTS:
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1. VAIKOM TALUK CO-OPERATIVE AGRICULTURAL RURAL DEVELOPMENT BANK LTD. K.951
REPRESENTED BY SECRETARY, VAIKOM, KOTTAYAM-686 141.

2. THE MANAGING COMMITTEE OF THE VAIKOM TALUK CO-OPERATIVE AGRICULTURAL RURAL DEVELOPMENT BANK LTD.K.951
REPRESENTED BY ITS PRESIDENT, VAIKOM, KOTTAYAM-686 141.

3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
KOTTAYAM-686 001.

R1 & 2 BY ADV. SRI.V.G.ARUN
R1 & 2 BY ADV. SRI.T.R.HARIKUMAR
R BY SRI. K.C. VINCENT, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXHIBIT P1: A TRUE COPY OF THE AADHAR CARD OF THE FIRST PETITIONER.

EXHIBIT P2: A TRUE COPY OF THE DRIVING LICENCE OF THE SECOND PETITIONER .

EXHIBIT P3: A TRUE COPY OF THE MEMBERSHIP FORMAT SUPPLIED BY THE BANK FOR MEMBERSHIP IN RESPECT OF THE FIRST PETITIONER.

EXHIBIT P4: A TRUE COPY OF THE MEMBERSHIP FORMAT SUPPLIED BY THE BANK FOR MEMBERSHIP IN RESPECT OF THE SECOND PETITIONER.

EXHIBIT P5: A TRUE COPY OF THE REJECTION ORDER OF THE BANK SECRETARY DATED 26.3.2015 IN RESPECT OF FIRST PETITIONER.

EXHIBIT P6: A TRUE COPY OF THE REJECTION ORDER OF THE BANK SECRETARY DATED 26.3.2015 IN RESPECT OF THE SECOND PETITIONER.

EXHIBIT P6: REPORT OF THE SECRETARY SUBMITTED BEFORE THE ASSISTANT REGISTRAR OBTAINED UNDER RTI ACT WITH ENGLISH TRANSLATION.

EXHIBIT P7: TRUE COPY OF THE REPORT OF THE ASSISTANT REGISTRAR UNDER THE RTI ACT WITH ENGLISH TRANSLATION.

EXHIBIT P8: TRUE COPY OF THE REFER REPORT OF THE POLICE OBTAINED UNDER THE RTI ACT WITH ENGLISH TRANSLATION.

EXHIBIT P9: TRUE COPY OF THE MEMBERSHIP DETAILS OF 58 PERSONS.

RESPONDENTS' EXHIBITS:

EXT.R1(a)	:	TRUE COPY OF THE PRINTED APPLICATION FORM FOR MEMBERSHIP.
EXT.R1(a)(i)	:	COPY OF THE ENGLISH TRANSLATION OF EXHIBIT R1(a).
EXT.R1(b)	:	TRUE COPY OF THE RECEIPT DATED 09.07.2015 ISSUED BY THE 1ST RESPONDENT BANK FOR REMITTANCE OF APPLICATION FEE.
EXT.R1(c)	:	TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES, VAIKOM DATED 25.03.2015.
EXT.R1(c)(i)	:	COPY OF THE ENGLISH TRANSLATION OF EXHIBIT R1(c).
EXT.R1(d)	:	TRUE COPY OF THE COMPLAINT SUBMITTED BEFORE THE CIRCULE INSPECTOR OF POLICE, VAIKOM DATED 25.03.2015.
EXT.R1(d)(i)	:	COPY OF THE ENGLISH TRANSLATION OF EXHIBIT R1(d).

EXT.R1(e)	:	TRUE COPY OF THE JUDGMENT DATED 10.04.2015 IN W.P.(C) NO. 12180 of 2015.
EXT.R1(f)	:	TRUE COPY OF THE NOTICE DATED 19.06.2015 ISSUED BY THE ASSISTANT REGISTRAR OF CO-OPERATIAVE SOCIETIES, VAIKOM.
EXT.R1(f)(i)	:	COPY OF THE ENGLISH TRANSLATION OF EXHIBIT R1(f).
EXT.R1(g)	:	TRUE COPY OF THE OFFICE ORDER DATED 29.06.2015 ISSUED BY THE PRESIDENT OF THE 1ST RESPONDENT BANK.
EXT.R1(g)(i)	:	COPY OF THE ENGLISH TRANSLATION OF EXHIBIT R1(g).

/True Copy/

P.A to Judge.

rv

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 10821 of 2015 (C)

Dated this the 17th day of August, 2015.

JUDGMENT

Heard the learned counsel for the petitioners, the learned Government Pleader and the learned counsel for the respondent Bank, apart from perusing the record.

2. With a view to availing themselves of the banking services of the respondent Bank, the petitioners submitted applications for membership. The respondent society has, however, rejected them through Exts.P5 and P6. The singular objection of the respondent Bank in not considering the petitioners' applications is that the applications are not in the original but are mere photocopies. Aggrieved thereby, the petitioners have approached this Court.

3. Sri. P.N. Mohanan, the learned counsel for the petitioners, has submitted that the respondent Bank, contrary to the statutory stipulations, has been insisting on the petitioners' going in person and collecting the applications after establishing their identity. According to him, in terms of Rule 16 of the Kerala Co-Operative Societies Rules ('the Rules' for brevity),

there is no pre-condition that every prospective member of the respondent Bank should go in person even to collect the application. He has further contended that there is no prescribed format for an application, and as such it is for the persons intending to be members of a society to draw up an application and submit the same to the respondent Bank. In other words, it is the specific contention of the learned counsel for the petitioners that the respondent Bank cannot reject the photocopy of an application.

4. The learned counsel for the respondent Bank, in tune with the averments made in the counter affidavit, has submitted that to avoid spurious applications and also packing of the Society with members who are least interested in the development of the Bank, it has devised a method of circulating applications for membership by specifying a unique number for each application. According to him, the petitioners are at liberty to collect the applications from the respondent Bank and apply by fulfilling the membership conditions. He has also submitted that the Bank will ascertain the identity and also the bona fides of the applicants.

5. In my view, the question of establishing the identity or the bona fides of the applicants shall be at the stage of the scrutiny of the applications. At any rate, the learned Government Pleader, having drawn my attention to Rule 16(1)(b) of the Rules, has submitted that the respondent Bank is well

within its powers to devise its applications and insist on the prospective members' using the same application if they want to have the membership.

6. I do not see much of an issue in the writ petition except whether each applicant should go in person to collect the application and whether only the application supplied by the respondent Bank should be used.

7. Insofar as the first issue is concerned, it is difficult to see any merit in the respondent Bank's insisting that each person should go in person to collect the application. As has already been observed, the question of establishing the identity of the applicant should be at the stage of scrutiny, rather than at the stage of the person's obtaining an application.

8. As regards the second issue, there is sufficient force in the contention of the learned counsel for the respondent Bank. The Bank is well within its powers, especially going by Rule 16(1)(a) of the Rules, to have a particular method devised for regulating the distribution of applications and ensuring that only the persons with bona fide intentions join as the members of the respondent Bank. In the same reckoning, it is to be held that the respondent Bank is well within its powers to insist on the prospective members' using the applications in the original having unique numbers, so that the respondent Bank can track the applications and the persons seeking membership of the respondent Bank.

In the facts and circumstances, this Court disposes of the writ petition with a direction to the respondent Bank to issue to the petitioners the applications in original, without insisting on their presence before the respondent Bank. Needless to observe that at the stage of scrutiny, it is entirely for the managing committee of the respondent Bank to insist on the applicant's personal appearance to ascertain the identity, by following the statutory mandate in that regard. No order as to costs.

sd/- DAMA SESHADRI NAIDU, JUDGE.

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