

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 13TH DAY OF JULY 2015/22ND ASHADHA, 1937

WP(C).No. 11515 of 2015 (L)

PETITIONERS:

1. THE KALEEKKATHARA KSHEEROLPADAKA
CO-OPERATIVE SOCIETY NO.Q 89 (D) APCOS REP. BY
ITS PRESIDENT SOORANAD NORTH PO, PIN 690 561.
2. PADINJATTAM KIZHAKKU KSHEEROLPADAKA
CO OPERATIVE SOCIETY NO.Q 196(D), APCOS
REP. BY ITS PRESIDENT, SOORANAD PO, PIN 690 522.

BY ADVS.SRI.P.C.SASIDHARAN
SRI.ARAVINDA KUMAR BABU T.K.

RESPONDENTS:

1. STATE OF KERALA REP. BY ITS SECRETARY,
DIARY DEVELOPMENT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM 695 001.
2. THE DEPUTY DIRECTOR OF DIARY DEVELOPMENT,
OFFICE OF THE DEPUTY DIRECTOR OF DIARY
DEVELOPMENT, KOLLAM 691 001.
3. THE DIARY DEVELOPMENT OFFICER,
OFFICE OF DIARY DEVELOPMENT OFFICER,
SASTHAMCOTTA, KOLLAM 690 521.
4. UNNIKRISHNAN NAIR,VAISHNAVAM, PADI KIZHAKKU,
SOORANADU NORTH PO, KOLLAM 690 522.
5. G.JOHN, PULIVILAYIL, PADI KIZHAKKU, SOORANADU PO,
KOLLAM DISTRICT 690 522.

R1 TO R3 BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR
R4 BY ADV. SRI.R.MOHANA BABU
R4 BY ADV. SRI.M.SABU
R5 BY ADV. SRI.D.SREEKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 11515 of 2015 (L)

PETITIONER'S EXHIBITS:

EXT. P1: TRUE COPY OF THE CERTIFICATE ISSUED BY THE GRAMA PANCHAYATH SECRETARY, SORRNADU NORTH

EXT. P2: TRUE COPY OF THE CERTIFICATE EARMARKING THE AREA OF OPERATION OF THE 1ST PETITIONER SOCIETY

EXT. P3: TRUE COPY OF THE SAID COMPLAINT DATED 29.10.2014

EXT. P4: TRUE COPY OF THE REPORT DATED 26.12.2014 OF THE 3RD RESPONDENT

EXT. P5: TRUE COPY OF THE PETITION FILED BEFORE THE 2ND RESPONDENT

EXT. P6: TRUE COPY OF THE PETITION SUBMITTED BY SRI.C.SAJEENDRAN NAIR, G.JOHN AND OTHERS BEFORE THE HONOURABLE MINISTER AND THE ENDORSEMENT OF THE HONOURABLE MINISTER

EXT. P7: TRUE COPY OF THE COMPLAINT BEFORE THE HONOURABLE MINISTRY FOR DIARY DEVELOPMENT MINISTER

EXT. P8: TRUE COPY OF THE COMMUNICATION ISSUED BY THE DIARY EXTENSION OFFICER

EXT. P9: TRUE COPY OF THE COMMUNICATION DATED 12.5.`5 OF THE DEPUTY DIRECTOR, KOLLAM

EXT. P10: TRUE COPY OF THE LETTER DATED 25.5.15 ISSUED BY DAIRY DEVELOPMENT OFFICER, SASTHAMCOTTA

RESPONDENT'S EXHIBITS:

EXT. R5(a) TRUE COPY OF THE LATEST JUDGMENT DATED 4.2.2015 IN WPC 14721/2014 PASSED BY THIS HON'BLE COURT

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.11515 of 2015 L

Dated this the 13th day of July, 2015

JUDGMENT

Heard the learned counsel for the petitioners and the learned Government Pleader for respondents 1 to 3, apart from perusing the record.

2. Briefly stated, the petitioner Societies, existing since 1983, have come before this Court ventilating their grievance that the respondent authorities may permit another Society, evidently represented by respondents 4 and 5, to have its operations within their area, thus adversely affecting their interest.

3. In the counter affidavit filed by the second respondent, it is made very clear that the authorities do not have any intention of granting permission to respondents 4 and 5 or any other person to establish another Society within the petitioners' area of operations.

4. From the counter affidavit, it is evident that a Technical Assistant submitted a report that it is not in the interest of the existing Societies to permit another Society to be established within the same area.

5. It is the singular grievance of the learned counsel for the petitioner that from the counter affidavit filed by the second respondent, it can be gathered that the persons who desire to establish another Society have already submitted an application seeking exemption from the provisions of Section 101 of the Kerala Co-operative Societies Act ('the Act' for brevity). According to him, in terms of Section 2(f) read with proviso to Section 4 of the Act to seek exemption in terms of Section 101, the very Society ought to have been in existence by way of registration by the time such an application is made. In the present instance, the Society proposed to be established has not yet taken any legal shape.

6. The learned counsel has also drawn my attention to Section 7(c) of the Act to contend that Registrar of the Co-

operative Societies can entertain any application only if it does not adversely affect the interest of the existing society.

7. Be that as it may, the second respondent has gone on record stating that as per their enquiry it is not feasible to grant permission to a new Society in the petitioners' area of operations. In so far as the issue of considering the application under Section 101 of the Act, this Court makes it abundantly clear that if the respondent authorities desire to consider such an application as is said to have been made by either the contesting respondents or by any other person, at the time of its consideration, the petitioner Societies are to be given an opportunity to advance their objections in that regard.

With the above observations, the writ petition stands disposed of. No order as to costs.

Dama Seshadri Naidu, Judge

tkv