

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WP(C).No. 11520 of 2015 (L)

PETITIONERS:

1. S.KALAN, DIRECTOR, KERALA STATE FEDERATION OF SCHEDULED CASTE/SCHEDULED TRIBE DEVELOPMENT CO-OPERATIVE LTD., RESIDING AT CHEKKADI COLONY, APPAPPARA PO, THIRUNELLI, KATTIKULAM (VIA), WAYANAD.
2. K.RADHA, DIRECTOR, KERALA STATE FEDERATION OF SCHEDULED CASTE/SCHEDULED TRIBE DEVELOPMENT CO-OPERATIVE LTD., RESIDING AT AMBILADI(H), BEDADUKA PO, CHENGALA (VIA), KASARGOD - 671 541.
3. A.K.GEETHA, DIRECTOR, KERALA STATE FEDERATION OF SCHEDULED CASTE/SCHEDULED TRIBE DEVELOPMENT CO-OPERATIVE LTD., RESIDING AT PULIYOTH MEETHAL, MUCHUKUNNU PO., KOZHILANDI - 673 307.
4. K.V.JANARDHANAN, DIRECTOR, KERALA STATE FEDERATION OF SCHEDULED CASTE/SCHEDULED TRIBE DEVELOPMENT CO-OPERATIVE LTD., RESIDING AT KIZHAKKEPURAKKAL, ANCHERY PO., THRISSUR - 680 006.
5. K. CHANDRAN, DIRECTOR, KERALA STATE FEDERATION OF SCHEDULED CASTE/SCHEDULED TRIBE DEVELOPMENT CO-OPERATIVE LTD., RESIDING AT THATTANPATTI, CHIKKANAMPARA, KOLLANKODU PO., PALAKKADU - 678 506.
6. A.K.DAMODARAN, DIRECTOR, KERALA STATE FEDERATION OF SCHEDULED CASTE/SCHEDULED TRIBE DEVELOPMENT CO-OPERATIVE LTD., RESIDING AT AZHAKATHU ADIMURIYEL, MATHOOR PO., OMALLOOR (VIA), PATHANAMTHITTA - 689 647.
7. C.V.SATHEESAN, DIRECTOR, KERALA STATE FEDERATION OF SCHEDULED CASTE/SCHEDULED TRIBE DEVELOPMENT CO-OPERATIVE LTD., RESIDING AT CRISTAL (H), KURUPPAN KULANGARA PO., CHERTHALA SOUTH, ALAPPUZHA - 688 539.

8. P.K.BALAN, DIRECTOR, KERALA STATE FEDERATION OF SCHEDULED CASTE/SCHEDULED TRIBE DEVELOPMENT CO-OPERATIVE LTD., RESIDING AT POYKAVIL (H), CHANNANIKAD PO., KOTTAYAM - 686 533.
9. K.C.AYYAPPAN, DIRECTOR, KERALA STATE FEDERATION OF SCHEDULED CASTE/SCHEDULED TRIBE DEVELOPMENT CO-OPERATIVE LTD., RESIDING AT KUNJALAKKATTU (H), VARAPPETTY PO., KOTHAMANGALAM - 686 691.
10. V.KESAVAN, DIRECTOR, KERALA STATE FEDERATION OF SCHEDULED CASTE/SCHEDULED TRIBE DEVELOPMENT CO-OPERATIVE LTD., RESIDING AT JAIHIND COLONY, NANDANKUNI (PO), MEPPADI (VIA), WAYANADU.
11. INDIRA, DIRECTOR, KERALA STATE FEDERATION OF SCHEDULED CASTE/SCHEDULED TRIBE DEVELOPMENT CO-OPERATIVE LTD., RESIDING AT THEKKEVILA VEEDU, PULIYILA, NALLILA PO., KOLLAM - 691 515.

BY ADVS.SRI.G.BIJU
SRI.S.JAYAPRAKASH (MADAVOOR)
SRI.V.A.VINOD

RESPONDENTS:

1. STATE OF KERALA REP. BY PRINCIPAL SECRETARY, CO-OPERATIVE DEPARTMENT, GOVT. SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. THE REGISTRAR OF CO OPERATIVE SOCIETIES, O/O.THE REGISTRAR OF CO OPERATIVE SOCIETIES, THIRUVANANTHAPURAM - 695 001.
3. THE KERALA STATE FEDERATION OF SCHEDULED CASTE AND SCHEDULED TRIBES DEVELOPMENT CO-OPERATIVE LTD NO.4351 REP. BY ITS MANAGING DIRECTOR, PEROORKADA, THIRUVANANTHAPURAM - 695 005.
4. THE ADMINISTRATOR, KERALA STATE FEDERATION OF SCHEDULED CASTE AND SCHEDULED TRIBES DEVELOPMENT CO OPERATIVE LTD. NO.4351, PEROORKADA, THIRUVANANTHAPURAM - 695 005.

BY SPL.GOV'T. PLEADER SRI.D.SOMASUNDARAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17-11-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 11520 of 2015 (L)

PETITIONER'S EXHIBITS:

EXT. P1: TRUE COPY OF THE ORDER OF 2ND RESPONDENT DATED 13.03.2015

EXT. P2: TRUE COPY OF THE RELEVANT PORTION OF THE BYE LAW OF 3RD RESPONDENT SOCIETY

EXT. P3: TRUE COPY OF THE ORDER DATED 04.03.2013 OF THE 1ST RESPONDENT

EXT. P4: TRUE COPY OF THE MINUTES DATED 21.11.2014 EVIDENCING PARTICIPATION OF 13 DIRECTORS

EXT. P5: TRUE COPY OF THE MINUTES DATED 16.01.2015

EXT. P6: TRUE COPY OF THE MINUTES DATED 26.02.2015

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.11520 of 2015 L

Dated this the 17th day of November, 2015

JUDGMENT

The petitioners, eleven in number, have filed the writ petition assailing Exhibit P1 order of the Registrar, the second respondent, who has appointed an Administrator by exercising his powers under Section 33(1) of the Kerala Co-Operative Societies Act ('the Act' for brevity).

2. Very briefly stated, the respondent Federation got a duly elected Managing Committee comprising 23 members: 14 elected, 7 ex officio and 2 nominees of the Government. In the course of time, the Managing Director, who is also an ex-officio member of the Managing Committee, addressed a communication to the Registrar to the effect that the Managing Committee of the respondent Federation did not have sufficient quorum to transact its business in its meetings held on 16.01.2015 and 26.02.2015.

Taking the Managing Director's communication as an expression of opinion on his part that there is an administrative stalemate, the Registrar through Exhibit P1 appointed an Administrator. Thus, the Managing Committee stood abolished. Under those circumstances, aggrieved, the petitioners have filed the present writ petition.

3. The learned counsel for the petitioners has strenuously contended that the Registrar could exercise his powers under Section 33(1) of the Act only in the event when a Managing Committee could not have its meetings for six consecutive months. According to him, admittedly a meeting with proper quorum was held on 26.09.2014, and six months would come to an end by 31.03.2015. The Registrar, however, passed Exhibit P1 order on 13.03.2015. Simply stated, Exhibit P1, according to the learned counsel, is premature.

4. The learned counsel has submitted that Exhibit P1—for that matter, the report of the Managing Director as

well—suffers from a factual inaccuracy. In elaboration, he has submitted that as per the bye-laws of the Federation, the Managing Committee ought to comprise 25 members. In view of the fact that the Central Government did not nominate, the actual complement of the Committee is 23. Ipso facto, on 21.11.2014, 16.01.2015 and 26.02.2015, the Committee, contends the learned counsel, had the necessary quorum i.e., 12 persons.

5. In elaboration, the learned counsel has submitted that in terms of Section 28(5) of the Act the minimum quorum being above 50% of the total strength of the Managing Committee, 12 is sufficient: 12 is more than 50% of 23.

6. The learned counsel has also contended that on 21.11.2014 the Committee had 13 members present, as can be seen from Exhibit P4. At any rate, since the person at serial No.12 in Exhibit P4 got disqualified, still the Committee had 12 members in its meeting on that day.

Further, as per Exhibit P5, in the meeting held on 16.01.2015, initially 14 members were present. However, half-way through, the nominees of the Government and the deputy of the Co-operative Department, who is also an ex-officio member, excused themselves and walked out of the meeting by striking off their names in the attendance register. In that context, the learned counsel strenuously contends that only under those deliberate contrived circumstances, the Committee is said to have 'lost' its quorum.

7. Eventually, drawing my attention to Exhibit P6, the minutes of the meeting dated 26.02.2015, the learned counsel would further contend that 12 persons were present and it formed the necessary quorum, indisputably.

8. In support of his submission that the Registrar can exercise his powers under Section 33(1) of the Act only on the grounds that the committee has failed to have its meeting in six consecutive months, the learned counsel has

placed reliance on **Radhakrishnan v. Joint Registrar**¹.

9. Per contra, the learned Special Government Pleader, to begin with, has submitted that the issue of not holding a meeting for six consecutive months has not weighed with the Registrar while his passing Exhibit P1. According to him, it is a non-issue.

10. The learned Special Government Pleader has further submitted that the Registrar has exercised his powers essentially based on the communication addressed by the Managing Director and passed Exhibit P1 in terms of Section 33(1)(aa) of the Act. Taking me through the said provision, he has further submitted that it is for the Managing Director to form an opinion concerning the administrative stalemate.

11. Once the Managing Director has come to a conclusion that it is not in the interest of the Federation with more than 50% of the members abstaining themselves

¹ 2008(2) KLT 385

from participating in the affairs of the Federation, he has got every power, according to the learned Special Government Pleader, to recommend to the Registrar to take remedial steps. In this regard, he has also drawn my attention to Clause 14 of the bye-laws.

12. In elaboration of his submissions, the learned counsel would contend that even as per Clause 14 of the bye-laws, the quorum has to be reckoned taking into account the total number of members on the committee i.e., 25 members.

13. When questioned about the propriety of the nominated members of the Government in taking stands and stultifying the functioning of the democratically elected Managing Committee, the learned Special Government Pleader has submitted that the issue before this Court is whether the Registrar has exercised his powers properly and in accordance with law. Once the Government nominates members, it entirely lies, contends the learned

Special Government Pleader, within their discretion to assess the ground realities while they participate in the affairs of the Federation. In support of his submissions, he has placed reliance on **Rev. Dr. George Njarakunnel and others v. State of Kerala and others**² and also **Moideen v. Registrar of Co-operative Societies**³.

14. In reply, the learned counsel for the petitioners has submitted that the quorum has to be reckoned based on the number of members actually in office rather than the permissible complement. In support of his submission, the learned counsel has placed reliance on **Registrar of Co-op. Societies v. Ahamed Ali**⁴.

15. Heard the learned counsel for the petitioners and the learned Special Government Pleader for respondents 1 and 2, apart from perusing the record.

Issues:

I. Whether the Managing Committee of the respondent

² 2009 (3) KHC 322 (DB)

³ 2008 (2) KLT 184

⁴ 2007(2) KLT 320

Federation lost its quorum on 21.11.2014, 16.01.2015 and 26.02.2015?

II. Whether the action of the Managing Director, an ex officio member of the Managing Committee, is justified in reporting to the Registrar that there is an administrative impasse?

III. Whether Exhibit P1 order of the Registrar is sustainable?

Issue Nos.I & II:

16. To begin with, as has been rightly contended by the learned Special Government Pleader the question whether the Managing Committee has failed to convene its meetings consecutively for six months is a non-issue, because Exhibit P1 order is not based on any such finding. Accordingly, any reference to the ratio laid down by this Court in Radhakrishnan (supra) is also obviated.

17. The principal issue required to be considered is whether the Managing Committee lacked its quorum on the dates mentioned above, and whether it resulted in an

administrative logjam. In other words, whether the Registrar is justified in invoking Section 33(1)(aa) of the Act?

18. In this context, what is not in dispute is that the respondent Federation, as per its bye-laws read with Section 31 of the Act, has to have twenty-five members on the Committee. But, since the Central Government has not nominated its two members, the actual strength of the Managing Committee came to be only 23. In terms of Section 28(5) read with Clause 14B of the bye-laws, the quorum should be more than fifty percent. In the present instance, it ought to be twelve or above.

19. On 22.11.2014, as can be seen from Exhibit P4 minutes of the meeting, 13 persons attended the Committee meeting. Nevertheless, the person shown at Serial No.12 is said to have been disqualified by then. Thus, excluding the said person, the strength of the Committee on that date was 12. At any rate, the Government, in its counter affidavit filed

by the second respondent, has taken an objection that the person shown at Serial No.11 in Exhibit P4 has also not been qualified.

20. According to the Registrar, the person at Serial No.11 is said to be the nominee of the Government. The Government originally nominated the Chief Conservator of Forest, but in his place the Assistant Conservator of Forest attended the meeting. In terms of the bye-laws, an official from the Forest Department not below the rank of Joint Registrar of Co-operative Societies alone can attend the meeting of the Managing Committee. Thus, it is urged that on 21.22.2014 it is deemed that only 11 persons attended.

21. On 16.01.2015, fourteen persons attended the Committee's meeting. As Exhibit P5 reads, half way through when the meeting was in progress, three of the Government nominees cancelled their participation by striking off their names in the register and left. This aspect has not been disputed. On the contrary, the second respondent has

stated that in view of the absence of those three Government nominees, once again the quorum has come down to 11. Finally, on 26.02.2015 twelve persons were present, inclusive of the Managing Director, who is also an Ex-Officio Director.

22. A perusal of Exhibit P11 reveals that the Managing Director has proceeded, regrettably, on a misconception that the complement of the Board of Directors is 25 and that the minimum quorum is 13. To the credit of the learned Special Government Pleader, he has submitted that in the absence of any nominees from the Central Government, the strength of the Board is 25 and the minimum quorum is 12. Even by the assertion of the respondent authorities, the meeting held on 26.02.2015 had the necessary quorum. On the previous two occasions, there was said to be no quorum: On 21.11.2014, an official lower in the rank represented the Government nominee; on 16.01.2015, three Government nominees, having initially

participated, left the meeting half way. In the first instance, the presence of a lower ranked official is said to be the undoing factor; in the next, the three Government nominees were deemed to be absent. The Managing Director has taken both the instances as meetings without the quorum.

23. In this context, it is essential to examine the statutory scheme that governs the situation. Section 33 of the Act to the extent relevant reads as follows:

“33. Appointment of new committee or administrator on failure to constitute committee, etc.- (1) Where the term of office of a committee has expired and a new committee has not been constituted, or where a no-confidence motion is passed by the general body against the existing committee or where the existing committee resigns en bloc or where vacancies occur in the committee either by resignation or otherwise and the number of remaining members cannot constitute the quorum for the meeting of the committee, or where the committee fails to hold its regular meeting consecutively for six months or where the Registrar is satisfied.

(a) that a new committee cannot be constituted before the expiry of the term of office of the existing committee; or

(aa) there is stalemate in the constitution or functions of the committee.”

(emphasis supplied)

24. A perusal of the above provision makes it clear that the last limb of the extracted provision, presumably, has been taken recourse by the Registrar to appoint an Administrator on the alleged grounds—as perceived by the Managing Director—that there is an administrative deadlock, a deadlock due to the lack of the necessary quorum.

25. On a close scrutiny of the provision, it emanates that lack of quorum may be occasioned under different circumstances. There may occur vacancies on the committee either by resignation or otherwise. In such an eventuality, if the number of the remaining members cannot constitute the quorum for the meeting of the Committee, it amounts to lack of quorum. On the other hand, where a Committee fails to hold its meetings consecutively for six months or where the Registrar is satisfied as regards the lack of quorum, it can still be taken as a reckoning factor. Clause (aa) of Section 33(1), on which frontal thrust has

been placed by the learned Special Government Pleader, concerns the stalemate in the constitution or functions of the Committee. The stalemate has not been elaborated upon; it is, perhaps, to the subjective satisfaction of the authorities concerned.

26. In the present instance, the stalemate is based on the subjective satisfaction of the Registrar. Though the learned Special Government Pleader has laid much emphasis on the supposed subjective satisfaction of the Registrar, it is trite to observe that the subjective satisfaction cannot descend into caprice or whimsicality—the irrational insight of a contributing, if not conniving, executive. For the Managing Director, an ex officio member, has made a common cause with other ex officio and Government nominee members. Be that as it may, the opinion ought to be a sustainable, rational one, justifiable either in terms of the statutory scheme or in terms of public interest.

27. Now, focusing on the alleged administrative stalemate, we may examine that the Board comprised 23 Directors: 14 elected and the rest un-elected, i.e., 7 ex-officio and 2 nominees of the Government. Indeed, in the present instance, the Central Government has not chosen to nominate any.

28. In the meeting held on 21.11.2014, one of the ex-officio members of the prescribed rank did not appear; in his place, an official of the lower rank appeared. The elected members of the Board have no say in the attendance of the ex-officio members. In fact, the ex-officio members become part of the Board ex cathedra, i.e. by the authority of their position. It is the statutory obligation rather than any act of grace on their part to attend the meeting of the Board, of which they are constituents. If they fail to appear either deliberately or with malicious intent, the elected members cannot be made to suffer. The dereliction belongs to the unelected; the deprivation to the elected.

29. Much worse is the situation on 16.01.2015, when admittedly the Board had fourteen members present initially. While the meeting was in progress one ex officio member and two nominees of the Government left the meeting striking off their names. The conduct of those officials, to say the least, is deplorable and dismal.

30. The learned Special Government Pleader has persistently submitted that the legality and validity of only Exhibit P1 has fallen for consideration. All that is required to be considered by the Court, according to him, is whether the said order is sustainable in statutory terms. I am afraid, the issue is not that simple.

31. The Government, as defined by the **Oxford English Dictionary**⁵, is the governing power in a State; the body of persons charged with the duty of governing. This may be viewed in two aspects, giving rise to two distinct senses of the word, which, however, often coincide in use.

⁵ OED, Multi-volume, Ed.

As a permanent entity (cf. 'the Crown', 'Parliament', etc.), irrespective of the changes in the persons who hold office. Hence, often practically equivalent to State, especially when used attributively. As constituted afresh by the appointment of a number of persons to certain official positions; in England, synonymous with ministry or administration.

32. Indeed, the Government is a compendium of public juristic entities such as ministries, public enterprises, institutions of every hue, which are designed on democratic and constitutional principles to perform multifarious functions. It is a multi-limbed mammoth. Its aim and objective is the common good. If one limb leads astray—if it sins—the rest of the body cannot remain saintly. By legal fiction, the State, therefore the Government, is one holistic entity always aiming to remain holy, of course, on the principle of constitutional morality.

33. Viewed in that perspective, I may hold that those Directors—the ex officio members and also one of the

nominees of the Government—have deliberately without any rhyme or reason had either chosen not to appear or walked away in the middle. For their unjustifiable conduct, I fail to understand, how the other elected members of the Board can be made to suffer!

34. Indeed, it is trite to observe that the Government has been bound, more than anybody else, by the constitutional morality which transcends the letter of law. To put the issue in prospective, I may observe that as an employer it is expected to be exemplary and allowed to take not every defence available to an ordinary employer or a private entity. As a proprietary entity, thus holding any property, it is not permitted to hold on to somebody else's property on the basis of adverse possession though technically nothing prevents it in terms of common law; the Government is denied such luxury. It is an aspect of constitutional morality that dissuades the Government from taking such technical pleas. For that matter, the

Government, being the biggest litigant, always enjoys, latently, a privileged position in the adjudicatory process—a case in point being its application for condonation of delay. The Government is given the leverage taking into account its unwieldy mechanism and decentralized decision making process.

35. In the same reckoning, I am of the view that absence of the ex officio members or the Government nominees without justification for the mere purpose of wrecking the democratically elected Board is impermissible. The ground that weighed with the Registrar is the administrative stalemate to the satisfaction of the Registrar. One limb having created the chaos, another limb cannot cry foul. In other words, the Government cannot be permitted to take advantage of its own making, for the ex officio members, the nominees and the Registrar, all of them, represent different facets of the Government.

36. In Moideen (supra), a learned Single Judge of this Court has held that the quorum of a committee shall be reckoned taking into account all the members of the committee including the nominated ones. At any rate, in the same judgment it has been held that the quorum of a meeting has to be above fifty percent of the total number of the members of that committee, which is to meet, meaning thereby, the committee in office as on that day. The same proposition has been reiterated in Ahamed Ali (supra). In neither of the cases, the issue of the Government nominees or the ex officio members has fallen for consideration.

37. In the facts and circumstances, I answer issue Nos.I & II in favour of the petitioners.

Issue No.III:

38. The learned Special Government Pleader has also placed reliance on Rev.Dr.George Njarakunnel (supra), in which a learned Division Bench of this Court has reiterated a well-known principle of judicial review. The judicial

dictum is as follows:

“20. It is well settled that in judicial review of an administrative action, the court looks at the manner in which and the procedure followed in arriving at the decision. The court is not concerned with the decision as such, but the decision making process. The courts are not sitting as a court of appeal, but simply reviews the manner in which the decision was taken. It is accepted that the courts usually do not have the expertise to correct complicated and technical administrative decisions. The courts usually do not substitute its own decisions without the necessary expertise. The intention is to check mala fide, perverse and arbitrary action. It is trite that judicial review is held to be an integral part of the Constitution and its basic structure.”

39. We may have to read the above principle of judicial review in the light of the proposition of law which is equally well-settled: If a statute requires an authority to exercise power, when such authority is satisfied that conditions exist for exercise of that power, the satisfaction has to be based on the existence of grounds mentioned in the statute. The grounds must be made out on the basis of the relevant material. If the existence of the conditions required for the exercise of power is challenged, the courts are entitled to examine whether those conditions existed

when the order was made. A person aggrieved by such action can question the satisfaction by showing that it was wholly based on irrelevant grounds and hence amounted to no satisfaction at all. In other words, the existence of the circumstances in question is open to judicial review (vide **Indian Nut Products v. Union of India**⁶).

40. As I have already adverted to, we cannot but examine—keeping in mind the limitations of judicial review, though—the material before the Registrar to come to a conclusion that there is administrative impasse in the Federation. The basis is the report of the Managing Director. The *raison d'être* is the alleged lack of quorum: How has this so-called lack of quorum been brought about?

41. It may sound noble or naïve. The existential exigencies of the Executive in a parliamentary democracy, where majority is the 'magical' word need not permeate every institution in the hierarchy. The institutional impasse

6 (1994) 4 SCC 269

at the instance of the very guardian of the institution, the Government, is impermissible. Metaphorically mentioned, it is akin to a doctor causing the cancerous growth, and then amputating the limb in the name of cure. Here, the Government, rather its representatives, cause the impasse. Its another representative acting in a quasi-judicial capacity finds it to be a failure of the administrative mechanism. And the remedy is, disbanding the very mechanism—the Managing Committee, whose elected members are made to pay for somebody else's fault, and deliberate at that.

42. In **Public Ethics and Governance: Standards and Practices in Comparative Perspective**⁷, under the chapter Political Ethics and Responsible Government, Andrew Potter observes thus:

“There is a third meaning of responsible government that goes beyond the twin doctrines of legal and parliamentary responsibility. This is a broader, or higher, form of responsibility, understood as a set of moral obligations associated with the responsibility of leadership in a constitutional democracy. This higher sense of responsibility is what Amery calls “a state of mind, which weighs the

7 P.78, edited by Denis Saint-Martin and Fred Thompson. Elsevier, 2006.

consequences of action and then acts, irrespective, it may be, of the concurrence or approval of others” This is the responsibility of leadership, of conviction, conscience, judgment, and integrity. It eschews mere partisanship or majoritarianism, in favor of the pursuit of the public good and the national interest.

We could call it the professional ethic of responsible government, and while it is never strictly codified or even written down anywhere, it includes the unwritten rules and norms that make up a large part of our constitutional heritage. . .”

43. In **Conflict of Law and Morality**⁸ under the heading Fairness, Perceived Fairness, and Administrability, the learned author Kent Greenawalt opines thus:

“If someone is incapable of performing the task that would constitute his share, fairness does not demand a pointless effort to make him perform. The allocation of burdens will be fairer, however, if he is imposed on in some other way than if he is simply relieved altogether.”

44. Here the nominated members and the ex officio members play truant, they make the position of the elected members untenable, one of those ex officio members cries foul at their own making, another authority acknowledges that so-called administrative impasse. And finally he rewards those who are playing truant by punishing who are

8 P.316, Oxford University Press, 1989

not guilty—at least, of not playing the spoil sport.

In the facts and circumstances, the writ petition is allowed setting aside Exhibit P1. It is made clear that in the light of setting aside Exhibit P1 all the consequential measures shall be taken by the respondent authorities to ensure that the Board resumes its functions.

Dama Seshadri Naidu, Judge

rv/tkv

'C.R.'