

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 12TH DAY OF AUGUST 2015/21ST SRAVANA, 1937

WP(C).No. 12641 of 2015 (E)

PETITIONER : -

THE CHITHARA SERVICE CO-OP.BANK LTD.NO.2818,
CHITHARA P.O., KOLLAM,
REPRESENTED BY ITS SECRETARY.

BY ADV.SRI.K.SIJU

RESPONDENTS : -

1. THE KERALA STATE HUMAN RIGHTS COMMISSION,
M.P. APPANROAD, VAZHUTHACAUD,
THIRUVANANTHAPURAM - 695 014,
REPRESENTED BY ITS REGISTRAR.
2. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
CIVIL STATION, KOLLAM - 691 013.
3. THE ASST. REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
KOTTARAKKARA, KOLLAM-691 533.
4. P.RAVEENDRAN,
THEKKUMKARA VEEDU,
THUDAYANNOOR P.O, KADAKKAL,
KOLLAM DISTRICT-691 536.

R4 BY ADV.SRI.ANIL K.NAIR

R4 BY ADV.SRI.B.UNNIKRISHNA KAIMAL

BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS : -

EXHBIIT P1 : COPY OF COMMUNICATION ALONG WITH RELEVANT PAGE OF
THE GOVERNMENT ORDER RECEIVED FROM THE 2ND
' RESPONDENT.

EXHBITI P2 : COPY OF COMMUNICATION ISSUED BY THE PETITIONER BANK TO
THE 3RD RESPONDENT ON 2-7-2014.

EXHBIIT P3 : COPY OF COMMUNICATION ISSUED BY THE BANK TO THE 3RD
RESPONDENT DATED 29-08-2014.

EXHBIIT P4 : THE LETTER DATED 24-12-2014 ISSUED BY THE REGISTRAR OF
CO-OPERATIVE SOCIETIES.

EXHBIIT P5 : THE COPY OF ORDER PASSED BY THE KERALA STATE HUMAN
RIGHTS COMMISSION IN HRMP NO 8714/2014/KLM DATED 9-1-2015
ALONG WITH THE COVERING LETTER.

RESPONDENTS' EXHIBITS : -

EXHIBIT R4(a) : COPY OF THE LETTER No. 3074/2004 DATED 31.7.2003 OF
THE PETITIONER BANK.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 12641 of 2015

Dated this the 12th day of August, 2015

JUDGMENT

The petitioner, a Service Co-operative Bank, has assailed Exhibit P5 order of the first respondent. The grievance of the petitioner Bank is two-fold: that the first respondent does not have the necessary jurisdiction to entertain a service dispute; that even on merits Exhibit P5 order cannot be sustained.

2. The learned counsel for the petitioner has submitted that the fourth respondent has, if at all there is a dispute, an efficacious statutory remedy under Section 69 of the Kerala Co-operative Societies Act, 1969 (the 'Act for brevity'). Though he has also adverted to the merits of the matter, it may not be germane for our discussion, since this Court proposes to consider the matter on the preliminary issue of jurisdiction.

3. In response, the learned counsel for the fourth respondent has—in my view, fairly—submitted that the first respondent, strictly as per the letter of the law, does not have the jurisdiction. He has, however, submitted that there is no dispute and accordingly no issue to be determined before any jurisdictional forum. In elaboration of his submissions, the learned counsel for the fourth respondent has submitted that already the second respondent issued Exhibit P4 order recognising the claim of the fourth respondent to be a part-time Sweeper on a permanent basis. It is only, according to the learned counsel for the respondent, a question of implementation of Exhibit P4, which has not been challenged by the petitioner.

4. Be that as it may, the very fourth respondent admits that the first respondent does not have the necessary jurisdiction to entertain the issue concerning regularization of the fourth respondent's services. Even for the purpose of getting Exhibit P4 implemented, the fourth respondent requires, perhaps, a judicial directive, for which Section 69 of the Act is the answer. On the other hand, Exhibit P5 is only

advisory in nature.

In the facts and circumstances, the writ petition is allowed by setting aside Exhibit P5. It is, however, left open for the fourth respondent to take recourse to the appropriate judicial forum to ventilate his grievance, if any, even in terms of Exhibit P4 order of the second respondent. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-