

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

WP(C).No. 16622 of 2013 (C)

PETITIONER :

GIRISH KUMAR M.K.,
S/O.MANICKAN, MATTUPPARA HOUSE, NENMARA P.O.,
PALAKKAD.

BY ADVS.SRI.P.N.MOHANAN
SMT.I.VINAYAKUMARI

RESPONDENTS :

1. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
PALAKKAD-678 001.
2. NENAMARA BLOCK VYAPARI VYAVASAYI CO-OPERATIVE SOCIETY,
LTD NO.1209, REP. BY PRESIDENT, NENMARA P.O.,
PALAKKAD DISTRICT - 678 508.

R2 BY ADV. SRI.R.SREEHARI
BY GOVERNMENT PLEADER SRI.V.K.RAFEEQ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 16622 of 2013 (C)

APPENDIX

PETITIONER'S EXHIBITS :-

EXT.P1: COPY OF THE ORDER OF THE JOINT REGISTRAR DATED 29/11/2005.

EXT.P2: COPY OF THE PROCEEDINGS OF THE MINUTES OF THE BANK.

EXT.P3: COPY OF THE ORDER DATED 24/4/2012 OF THE JOINT REGISTRAR.

EXT.P4: COPY OF THE POST SANCTION ORDER DATED 6/7/2012 OF THE JOINT REGISTRAR.

EXT.P5: COPY OF THE APPOINTMENT ORDER OF THE PETITIONER DATED 3/10/2012.

EXT.P6: COPY OF THE ELECTION NOTIFICATION OF THE CHITTOOR THALUK MILK CO-OPERATIVE SOCIETY.

EXT.P7: COPY OF THE ORDER DATED 27/6/2013 OF THE JOINT REGISTRAR.

EXT.P8: COPY OF THE ORDER DATED 30/9/2008 OF THE SECOND RESPONDENT.

EXT.P9: COPY OF THE PROCEEDINGS OF THE MINUTES OF THE SECOND RESPONDENT.

RESPONDENTS' EXHIBITS :- NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.16622 of 2013

Dated this the 29th day of September, 2015

JUDGMENT

The petitioner, who is a member of the 2nd respondent Society, has filed this writ petition seeking a writ of certiorari to quash Ext.P7 order passed by the 1st respondent and seeking a writ of mandamus commanding the 1st respondent to re-consider the issue and grant him permission to contest the election scheduled to be held on 21.7.2013 as per Ext.P6 notification.

2. On 8.7.2013 after considering the contentions raised in the counter affidavit filed on behalf of the 2nd respondent this Court passed the following order :-

"A counter affidavit has been filed on behalf of the second respondent. The counsel for the petitioner seeks the issue of an interim order permitting the petitioner to contest the election notified as per Exhibit P6. The prayer for interim relief is opposed by the Special Government Pleader Sri.D.Somasundaram who points out that Exhibit P7 has been issued on the basis of valid reasons. The petitioner is a person who has been suspended on 30.09.2008. He has not been cleared of the charges. It is for the said reason that the permission has not been granted. The counsel for

the petitioner points out that Reference No.2 in Exhibit P7 is produced by him as Exhibit P8. Exhibit P8 has been issued by the President of the Society who has no authority to suspend him, the Managing Committee being the appointing authority. It is also pointed out that the President had resigned on 27.09.2008 and his resignation was accepted as per Exhibit P9. Therefore, Exhibit P8 was issued without any authority by a person who was not holding the post of the President at that time.

2. A perusal of Exhibit P7 shows that the permission sought for has been declined on the basis of the documents referred to as Reference No.2. The said reference is to Exhibit P8 document. *Prima facie*, the person who has issued Exhibit P8 does not appear to have had any authority to do so. He had resigned from the post on 27.09.2008 and his resignation is seen to have been accepted. Therefore, *prima facie* there is nothing on record to show that the permission sought for by the petitioner is liable to be declined.

In view of the above, I am satisfied that the petitioner is entitled to an interim order in this case. The operation and implementation of Exhibit P7 is therefore stayed. The first respondent is directed to grant permission to the petitioner to contest the election notified as per Exhibit P6, provisionally and subject to the result of this writ petition."

3. By the aforesaid interim order this Court stayed the implementation of Ext.P7 order and permitted the petitioner to

contest the election notified as per Ext.P6, provisionally and subject to the result of the writ petition.

In view of the aforesaid interim order, no further orders are required in this writ petition and hence this writ petition is closed making the aforesaid interim order absolute.

Sd/-
ANIL K.NARENDRA, JUDGE

skj