

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 23RD DAY OF MARCH 2015/2ND CHAITHRA, 1937

WP(C).No. 16840 of 2014 (D)

PETITIONER(S):

1. **PRINCY GEORGE, NADACKAL HOUSE,
KURIANAD PO, MONIPPALLY, KOTTAYAM - 686 636.**
2. **JITHIN T. JOSEPH, THARAPPIL HOUSE,
PALAKKATTUMALA P.O, MARANGATTUPPILLY,
KOTTAYAM - 686 635.**
3. **ARUN JOSEPH, VADAKKATHOTTATHIL,
MANNAKKANAD, KOZHA P.O,
KURAVILANGAD, KOTTAYAM-686 633.**

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENT(S):

1. **STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF CO-OPERATION, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
2. **THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G),
KOTTAYAM.**
3. **THE MARANGATTUPPILLY SERVICE CO-OPERATIVE
BANK LTD.NO.3556, MARANGATTUPPILLY PO,
KOTTAYAM DISTRICT - 686 635.**
4. **K.J. MATHAI, S/O.JOSEPH JOSEPH, KUDIYIRIPPIL HOUSE,
MARANGATTUPPILLY PO, KOTTAYAM DISTRICT, PIN- 686 635.**
5. **VARKEY MATHEW, S/O.VARKEY, KANNANTHARAPPIL HOUSE,
MARANGATTUPPILLY PO, KOTTAYAM DISTRICT, PIN-686 635.**

R1 & R2 BY GOVERNMENT PLEADER SRI.RAFEEK.V.K

R3 BY SRI.SUNIL CYRIAC,SC

R4 & R5 BY ADVS. SRI.N.MANOJ KUMAR

SMT.JAYASREE MANOJ

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 16840 of 2014 (D)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 - TRUE COPY OF THE NOTIFICATION DATED 20-12-2012.
- EXT.P2 - TRUE COPY OF THE RANK LIST DATED 18-2-2013.
- EXT.P3 - TRUE COPY OF THE JUDGMENT DATED 22-10-2013 IN
WPC NO.18223/2013.
- EXT.P4 - TRUE COPY OF THE NOTICE NO.C.R.P(1)6041/13 DATED 23-01-2014.
- EXT.P5 - TRUE COPY OF THE ORDER NO.C.R.P(1)6041/13/K.DIS
DATED 02-04-2014.

RESPONDENT(S)' EXHIBITS:

- EXT.R4(A) : TRUE COPY OF THE NOTIFICATION DATED 6.2.2013 ISSUED BY THE
ELANGULAM SERVICE CO-OPERATIVE BANK LTD.NO.3576.
- EXT.R4(B) : TRUE COPY OF THE APPLICATION DATED 16.5.2013 FILED BY THE
4TH RESPONDENT UNDER RTI ACT.
- EXT.R4(C) : TRUE COPY OF THE REPRESENTATION DATED 12.6.2013 SUBMITTED
BEFORE THE 2ND RESPONDENT.

/TRUE COPY/

P.S.TO JUDGE

mbr/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 16840 of 2014

Dated this the 23rd day of March, 2015

J U D G M E N T

Ext.P5 order by the Joint Registrar of Co-operative Societies, directing that no further appointments shall be made from Ext.P2 ranked list and directing the discharge of all employees working on daily wage basis, is under challenge in this writ petition.

2. The petitioners applied for the post of Attender/Salesman pursuant to Ext.P1. According to them, they stood 2nd, 3rd and 5th in Ext.P2 ranked list. The party respondents herein have filed a writ petition contending that more than one person could not be appointed from Ext.P2 ranked list, which was disposed of by Ext.P3 judgment directing the Joint Registrar to take a decision in this regard after affording an opportunity of hearing to necessary parties. The Joint Registrar passed Ext.P5 holding that more than one appointment could not be effected from Ext.P2 ranked list.

3. The petitioners challenge Ext.P5 order for two

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reasons. Firstly, it was contended that the Joint Registrar has no authority to consider the issue in the light of Section 69 of the Kerala Co-operative Societies Act as the disputes of the instant nature were required to be heard by the Co-operative Arbitration Court and not by the Registrar. The second ground of attack is that the petitioners were not given an opportunity of being heard.

4. The learned Standing Counsel for the society as well as the party respondents submitted that the matter would come well within the jurisdiction of the Joint Registrar.

5. Admittedly, in Ext.P3 judgment, there was a categorical direction to the Joint Registrar to dispose of the representation pending with regard to the dispute only after hearing the necessary parties. The words, 'necessary parties', means, the affected parties. The petitioners, undoubtedly, are the affected parties.

6. The learned counsel for the party respondents submitted that the same would be an exercise in futility, because, only one vacancy was notified and the petitioners, who are ranked 2nd, 3rd and 5th, are not entitled to get appointment.

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7. However, this Court is not inclined to go into the merits of the case of the petitioners. There was a clear direction by this Court in Ext.P3 judgment to hear the affected parties. It appears from record that the petitioners were not heard before passing the impugned order. Therefore, the same has to go; and the matter requires a reconsideration.

In the result, the writ petition is disposed of as follows;

- Ext.P5 is quashed.
- The 2nd respondent is directed to consider the matter afresh after affording the petitioners and the affected parties including the party respondents an opportunity of being heard. This exercise shall be completed within a period of one month from the date of receipt of a copy of this judgment.

It is hereby made clear that this Court has not expressed anything on the merits of the case.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-