

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE

THURSDAY, THE 10TH DAY OF DECEMBER 2015/19TH AGRAHAYANA, 1937

WP(C).No. 29796 of 2004 (V)

PETITIONER(S) :

**M.RAJENDRAN, S/O. MADHAVAN,
AGED 53 YEARS, NO OCCUPATION, PULIMOOTTIL HOUSE,
PUZHAMUDI POST, KALPETTA WAYANAD.**

**BY ADVS.SRI.R.SURENDRAN
SMT.P.GOPIKA**

RESPONDENT(S) :

- 1. THE DEPUTY DIRECTOR,
OFFICE OF THE DEPUTY DIRECTOR
DIARY DEVELOPMENT DEPARTMENT, WAYANAD, KALPETTA.**
- 2. THE PRESIDENT,
KALPETTA KSHEEROLPADAKA SAHAKARANA SANGHAM
NO.D.50 (D), POST MANIYANKODE, WAYANAD DISTRICT-673 122.**
- 3. THE KALPETTA KSHEEROLPADAKA SAHAKARANA SANGHAM,
NO.D.50 (D), POST MANIYANKODE, WAYANAD DISTRICT-673 122,
REPRESENTED BY ITS SECRETARY.**
- 4. STATE OF KERALA,
REPRESENTED BY THE SECRETARY (CO-OPERATIVE DEPARTMENT),
SECRETARIAT, THIRUVANANTHAPURAM.**

**R1 & R4 BY GOVERNMENT PLEADER
R2 & R3 BY ADV. SRI.PHILIP M.VARUGHESE**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10-12-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE NOTICE DATED 15.02.2003 WAS SERVED ON THE PETITIONER.

EXHIBIT P2: TRUE COPY OF THE REPLY DATED 21.02.2003.

EXHIBIT P3: TRUE COPY OF THE SUSPENSION ORDER DATED 14.03.2003.

EXHIBIT P4: TRUE COPY OF CHARGE WAS FRAMED BY THE DISCIPLINARY COMMITTEE CHAIRMAN OF THE SOCIETY ON 09.04.2003 AND SERVED ON THE PETITIONER.

EXHIBIT P5: TRUE COPY OF THE LETTER DATED 06.09.2003.

EXHIBIT P6: TRUE COPY OF REPLY DATED 23.09.2003 FILED BY THE PETITIONER.

EXHIBIT P7: TRUE COPY OF THE ORDER OF DISMISSAL DATED 26.09.2003.

EXHIBIT P8: TRUE COPY OF THE APPEAL DATED 22.10.2003.

EXHIBIT P9: TRUE COPY OF THE LETTER DATED 02.12.2003.

EXHIBIT P10: TRUE COPY OF THE PETITION DATED 27.12.2003 FILED BEFORE THE FIRST RESPONDENT.

EXHIBIT P11: TRUE COPY OF THE ORDER DATED 01.07.2004 ISSUED BY THE FIRST RESPONDENT.

RESPONDENT(S)' EXHIBITS :

EXHIBIT R2(A): DECISION TAKEN BY 3RD RESPONDENT ON 04.08.2004 COMMUNICATED ON 05.08.2004 TO THE 1ST RESPONDENT.

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.M. SHAFFIQUE, J.

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W.P. (C) No. 29796 of 2004

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Dated this, the 10th day of December, 2015

J U D G M E N T

Petitioner has filed this writ petition seeking to implement Ext.P11 by which the Deputy Director, Dairy Development Department has interfered with the punishment imposed on the petitioner and had directed the Managing Committee of the Society to take appropriate steps to reconsider the decision to enable the petitioner to be reinstated in service.

2. The short facts involved in the writ petition would disclose that the petitioner was charge sheeted for misconduct and after conducting an enquiry, he was dismissed from service. Petitioner preferred an appeal which came to be rejected and thereafter he had approached the Deputy Director who is deemed to be the Registrar under the Kerala Co-operative Societies Act. It is pursuant to his application that Ext.P11 order had been passed. However, no action was taken by the respondent Society to reinstate him in service which resulted in the present writ petition.

3. A counter affidavit has been filed by the respondent

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producing the decision taken by the Managing Committee on 4/8/2004 by which the Managing Committee decided not to reconsider their earlier decision. Ext.R2(a) is the said communication. It is therefore contended that there is no reason to reconsider the matter. That apart, it is contended that Ext.P11 has been issued in violation of the principles of natural justice. It is also contended that Ext.P11 cannot be considered as a direction to the Co-operative Society under Section 176 of the Kerala Co-operative Societies Act and nothing is stated in Ext.P11 to indicate that the resolution of the Society is rescinded.

4. It is pointed out by the learned counsel for the petitioner that since the petitioner had reached the age of superannuation, the request for reinstatement in service cannot be considered by this Court at this point of time. The only aspect would be to verify whether the petitioner will be entitled for any monetary benefits for not being permitted to join duty in terms of order dated 1/7/2004, Ext.P11.

5. A perusal of Ext.P11 would indicate that the Deputy

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Director directed the Society to reconsider the decision taken by the Managing Committee and to see whether he could be reinstated in service. The actual words read as under;

“ഈ സാഹചര്യത്തിൽ ശ്രീ .എൻ.രാജേന്ദ്രനെ പിരിച്ചുവിട്ടുകൊണ്ട് സംഘം ഭരണസമിതി എടുത്ത തീരുമാനം പുനപരിശോധിച്ച് ടിയാനെ സേവനത്തിൽ തിരികെ പ്രവേശിക്കുവാൻ തക്കവണ്ണം നടപടികൾ സ്വീകരിക്കേണ്ടതാണെന്ന് നിർദ്ദേശിക്കുന്നു.”

6. A perusal of Ext.R2(a) does not seem that the Managing Committee has considered the issue in its proper perspective. Managing Committee was directed to reconsider their decision and to see whether he could be reinstated in service. Such a consideration though mandated, was not done by the Society.

7. In the result, I am of the view that the matter requires reconsideration and accordingly, there will be a direction to the Society to reconsider the decision dated 4/8/2004 of the Managing Committee as referred to in Ext.R2(a) and take a final decision in the matter after taking into consideration the real

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purport of Ext.P11. Necessary orders shall be passed within a period of two months from the date of receipt of a copy of this judgment.

Writ petition is disposed of as above.

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp11/12/2015

//True Copy//

PS to Judge