

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 18745 of 2015 (P)

PETITIONERS:

1. ASWATHY BHASKARAN.C.B., D/O.C.BHASKARAN,
AGED 27, CHATHOTHU HOUSE, KOTTAKUNNU,
SULTHAN BATHERY, WAYAND DISTRICT.
2. BABU V.J. , S/.V.K.JOSEPH, AGED 34 YEARS,
VATTAKUNNEL, MEENAMAGALI P.O.,
WAYANAD DISTRICT.
3. ANCY N.K., D/O.KURIAKOSE N.C., AGED 36 YEARS,
VARUSERRY HOUSE, SULTHAN BATHERY,
WAYAND DISTRICT.
4. KAVITHA G., D/O.GOPALAN, AGED 35, CHOIMOOLA,
MATHAMANGALAM, NAIKATTY P.O., SULTHAN BATHERY,
WAYAND DISTRICT.

BY ADVS.SRI.T.A.SHAJI (SR.)
SMT.NAMITHA JYOTHISH

RESPONDENTS:

1. JOINT REGISTRAR (GENERAL) OF CO-OPERATIVE SOCIETIES,
WAYAND.
2. SULTHAN BATHERY TALUK PRIMARY CO-OPERATIVE
AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD.
NO.W.299, SULTHAN BATHERY P.O., WAYANAD-673 592
REPRESENTED BY ITS SECRETARY.
3. THE BOARD OF DIRECTORS, SULTHAN BATHERY TALUK
PRIMARY CO-OPERATIVE AGRICULTURAL AND
RURAL DEVELOPMENT BANK LTD. NO.W.299
SULTHAN BATHERY P.O., WAYANAD-673 592
REPRESENTED BY ITS PRESIDENT.
4. STATE OF KERALA REP. BY THE SECRETARY TO GOVERNMENT,
CO-OPERATIVE DEPARTMENT, SECRETARIAT,
THRIUVANANTHPAURAM.

R2& R3 BY ADV. SRI.GEORGE POONTHOTTAM
R1 & R4 BY SR.GOVERNMENT PLEADER SRI.K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 18745 of 2015 (P)

APPENDIX

PETITIONER'S' EXHIBITS:

EXT.P1. TRUE COPY OF THE RESOLUTION DATED 13/1/2014 OF THE MANAGING COMMITTEE OF THE 2ND RESPONDENT, ALONG WITH ITS ENGLISH VERSION.

EXT.P2. TRUE COPY OF THE RANKED LISTS DATED 20/10/2014 PUBLISHED BY THE 2ND RESPONDENT BANK FOR THE POSTS OF ATTENDER RECORD KEEPER AND PEON.

EXT.P3. TRUE COPY OF THE REPRESENTATION DATED 25/5/2015 SUBMITTED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT ALONG WITHIN ITS ENGLISH TRANSLATION

EXT.P4. TRUE COPY OF THE G.O.(P) NO.103/2003/CO-OP DATED 21/4/2003.

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.A. TO JUDGE

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 18745 of 2015

Dated this the 15th day of July, 2015

JUDGMENT

Heard the learned counsel for the petitioners and the learned Counsel for the respondents, as well as the learned Government Pleader, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioners, prospective job seekers, have filed this writ petition questioning what is said to be the in-action of the second and third respondents in not appointing the petitioners to the posts of Attender, Record Keeper and Peon, despite the lapse of more than seven months after publishing the rank list; as well as the failure of the first respondent in not acting upon the request of the petitioners to direct the second and third respondents to make appointments in accordance with law.

3. Having entered appearance, the second and third respondents have filed the counter placing on record as follows:

"5. It is also relevant to make a mention that the audit report pertains to the financial year 2013-14 reveals that the bank was at a net loss of Rs.2,65,85,000/- in that financial year. This factor also led to the stoppage of appointments from Exhibit P2 ranked list. Thus, as the financial status of the bank was in a constrained situation, the management of the bank was constrained to stop effecting appointments from the rank lists, as any appointments from the same would contribute more to the financial liabilities of the bank.

6. Further, it is most respectfully submitted that an amount of Rs.6,31,97,225/- which was to be given by the Sultan Bathery Primary Agricultural and Rural Development Bank Ltd No.225 (the mother bank) to this respondent bank, in accordance with the terms of bifurcation, was also not received for various reasons. Later, on 15.06.02015 the said dispute between the mother bank and this respondent bank has been settled due to the intervention of the Apex Bank. The audit of the bank for the financial year 2014-2015 is yet to be completed. The bank has no objection in appointing the petitioners in the

respective vacancies. But the management of the bank has to consider the financial status and situations of the bank before making appointments. The bank is ready and willing to effect the appointment in the bank as and when the financial status of the bank is steady. As the audit for the year 2014-2015 is going on in the bank, the financial position of this respondent bank can only be ascertained after the conclusion of the said audit. The petitioners cannot claim the appointment as a matter of right. Thus, there is no merit in the contentions of the petitioners and it is therefore submitted that the present writ petition is only to be dismissed with costs to this respondent and it is prayed accordingly."

4. The learned Senior Counsel appearing for the petitioners has submitted that in the light of the averments made in the counter affidavit, this writ petition can be closed in terms of the undertaking given by the respondents.

5. The learned Counsel for the second and third respondents, in tune with the averments made in the counter affidavit, has stated that presently audit is going on for the year 2014-2015, and that soon thereafter a decision could be taken concerning appointments from the rank list,

and that at that time the claim of the petitioners can as well be considered.

In the facts and circumstances, this writ petition is closed, leaving it open for the respondents to take appropriate action in terms of the averments made by them in the counter affidavit filed before this Court.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-