IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 22ND DAY OF SEPTEMBER 2015/31ST BHADRA, 1937

WP(C).No. 20493 of 2015 (J)

PETITIONER : -

THE MUTHOLY SERVICE CO-OPERATIVE BANK LTD NO.161,
THEKKEMURI, PULIYANNOOR POST, KOTTAYAM DISTRICT,
REPRESENTED BY ITS SECRETARY.

BY ADVS.SRI.MATHEW JOHN (K)
SRI.DOMSON J.VATTAKKUZHY

RESPONDENTS : -

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1. THE JOINT DIRECTOR OF AUDIT,
   KOTTAYAM-686 001.

2. THE ASSISTANT DIRECTOR OF AUDIT,
   PALA-686 573.

3. THE KERALA STATE CO-OPERATIVE RUBBER MARKETING FEDERATION,
   REPRESENTED BY ITS MANAGING DIRECTOR, POST BOX NO.15,
   GANDHI NAGAR, KOCHI-20.

R3 BY ADV.SRI.K.RAMAKUMAR (SR.)
R3 BY ADV.SRI.S.M.PRASANTH
R3 BY ADV.SRI.C.DINESH
R3 BY ADV.SMT.ASHA BABU
R3 BY ADV.SRI.G.RENJITH
BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
22-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 20493 of 2015 (J)

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1 : COPY OF THE STATEMENT SHOWING THE VARIOUS DEPOSITS THUS FAR MADE BY THE PETITIONER.

EXHIBIT P2 : COPY OF THE CONFIRMATION CERTIFICATE DATED 29.4.2014 IN RESPECT OF THE FINANCIAL YEAR 2013-2014.

EXHIBIT P3 : COPY OF THE CONFIRMATION CERTIFICATE DATED 16.4.2015.

EXHIBIT P4 : COPY OF THE LETTER BY THE PETITIONER DATED 7.5.2015 TO THE 3RD RESPONDENT.

EXHIBIT P4(a) ENGLISH TRANSLATION OF EXT.P4.

EXHIBIT P5 : COPY OF THE STATEMENT OF FIXED DEPOSITS WITH THE 3RD RESPONDENT BANK ALONG WITH INTEREST DUE AS ON 31.3.2014 AND 31.3.2015.

EXHIBIT P6 : COPY OF THE LETTER DATED 26.6.2015 TO THE PETITIONER.

EXHIBIT P7 : COPY OF THE LETTER DATED 3.7.2015 BY THE PETITIONER TO THE 3RD RESPONDENT.

EXHIBIT P7(a): ENGLISH TRANSLATION OF EXT.P7.

RESPONDENTS' EXHIBITS : -

EXHIBIT R3(a) : COPY OF THE MINUTES OF THE MEETING ADDRESSED TO THE PETITIONER VIDE LETTER DATED 27.3.2014.

EXHIBIT R3(b) : COPY OF THE CONFIRMATION CERTIFICATE GIVEN ON 6.7.15.

EXHIBIT R3(c) : COPY OF LETTER DATED 18.1.14 ADDRESSED TO THE PETITIONER.

EXHIBIT R3(d) : COPY OF THE ATTENDANCE STATEMENT OF THE MEETING HELD ON 7.11.2014.

EXHIBIT R3(e) : COPY OF LETTER DATED 27.11.14 OF THE PETITIONER.

EXHIBIT R3(f) : COPY OF BOARD RESOLUTION DATED 21.4.2015.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 20493 of 2015

Dated this the 22nd day of September, 2015

JUDGMENT

The petitioner, a Service Co-operative Bank, in tune with the directions of the Government, went on depositing its funds with the third respondent Federation. Those funds are said to have accumulated to be more than Rs.9 crore.

2. The third respondent, being in the habit of issuing annual confirmation certificates, in the course of time, issued Exhibit P2 certificate, dated 29.4.2014, reflecting the total deposits along with interest lying to the credit of the petitioner for the financial year 2013-2014. Later, it issued Exhibit P3, dated 16.4.2015, for the financial year 2014-2015.

3. It seems, disputing the figures in Ext.P3, the petitioner has submitted to the respondent Federation a calculation sheet in Ext.P5 reflecting the fund position for the financial 2014-15, but to avail.

4. Ventilating its grievance that, despite the lapse of

one year, the third respondent has not issued any revised annual confirmation certificate; but, on the other hand, it has simply reiterated the same figures as have been shown in Exhibit P2, the petitioner has filed the present writ petition.

5. Heard the learned counsel for the petitioner, the learned counsel for the third respondent, as well as the learned Government Pleader, apart from perusing the record.

6. Essentially both the parties in the writ petition have admitted that the disparity in the quantum of the petitioner's funds lying with the respondent Federation is owing to the method of calculation of interest adopted by either of the parties.

7. As the issue is technical in nature, this Court has felt it desirable to take the assistance of the Director of Co-operative Audit, Thiruvananthapuram. Accordingly, this Court issued an interim direction on 03.08.2015 to the said Officer to assist the Court in the matter.

8. On 15.09.2015, the Director of Co-operative Audit, Thiruvananthapuram, having complied with the direction of

this Court, filed a report along with a memo.

9. A perusal of the report filed by the Director of Co-operative Audit in conjunction with the opinion of the said official makes it manifestly clear that the statement as has been produced by the petitioner in Exhibit P5 reflects the correct figures. The official has further opined that Exhibit P5 may be accepted for further course of action.

10. Though the learned counsel for the third respondent has not raised any substantial objection concerning the report submitted by the Director of Co-operative Audit, he has nevertheless sought further time for issuing to the petitioner the annual confirmation certificate for the year 2014-2015. The excuse offered is that the 3rd respondent is required to handle many documents before it could issue a certificate.

11. Regrettably, the contention does not hold much water. In my considered opinion, the entire dispute lies in a narrow compass and now stands resolved, at least as a matter of professional opinion, by the Director of Co-operative Audit, an expert in the field. So long as the respondent federation does not dispute the report

submitted by the Director of Co-operative Audit, I do not see any justifiable ground for further tarrying over the matter.

12. In the facts and circumstances, this Court allows the writ petition directing the 3rd respondent to issue to the petitioner an annual confirmation certificate for the financial year 2014-2015 in tune with the report of the Director of the Co-operative Audit, Thiruvananthapuram, as expeditiously as possible, at any rate, within a period of two weeks from the date of receipt of a copy of this judgment.

13. Before parting with the matter, this Court places on record its appreciation of the sincere efforts of the Director of Co-operative Audit, Thiruvananthapuram, in diligently assisting the Court.

Needless to observe that once the petitioner obtains the annual confirmation certificate, the first and second respondents shall complete the audit on the basis of the said report, subject to other statutory formalities.

DAMA SESHADRI NAIDU
JUDGE

DMR/-