

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 12TH DAY OF OCTOBER 2015/20TH ASWINA, 1937

WP(C).No. 22218 of 2014 (B)

PETITIONERS:

1. KUNHIKRISHNAN, ANITHA NIVAS,
NADUVANNOOR P.O., KOZHIKODE DISTRICT.
2. GANGADHARAN, ARUMALAYIL HOUSE,
ORVIL P.O., KOZHIKODE.
3. HARIDASAN, POTTERI HOUSE, ULLIYERI P.O.,
KOZHIKODE.
4. CHANDRAN, KURUNKOT HOUSE, ORVIL P.O.,
KOZHIKODE.
5. RAGHAVAN, CHENGODE HOUSE, NADUVANNOOR P.O.,
KOZHIKODE.
6. VASANTHAKUMAR, SOPANAM, NADUVANNOOR P.O.,
KOZHIKODE.
7. HARIDASAN, VATTAKANDY HOUSE, KUNNATHARA P.O.,
KOZHIKODE.

BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENTS:

1. THE PROJECT OFFICER/DISTRICT REGISTRAR,
KHADI AND VILLAGE INDUSTRIES OFFICE,
KOZHIKODE DISTRICT-673 001.
2. THE KERALA STATE CO-OPERATIVE ELECTION COMMISSION,
THIRUVANANTHAPURAM-695 001.
3. THE RETURNING OFFICER, ORAVIL BLACKSMITHY
CARPENTRY WORKERS INDUSTRIAL CO-OPERATIVE
SOCIETY LTD.NO. KVIND(D) 19, NADUVATHOOR P.O.
KOZHIKODE DISTRICT-673330 (SENIOR CO-OPEARATIVE
INSPECTOR, KERALA KHADI GRAMA VYAVASAYA BOARD,
KOZHIKODE).

4. THE ORAVIL BLACKSMITHY CARPENTRY WORKERS
INDUSTRIAL CO-OPERATIVE SOCIETY LTD.NO.KVIND(D) 19,
NADUVATHOOR P.O., KOZHIKODE DISTRICT-673330
REPRESENTED BY ITS SECRETARY.

ADDL. R5 TO R8 MIMPLEADED

5. THE REGISTRAR, KHADI AND VILLAGE CO-OPERATIVE
SOCIETY (SECRETARY, KERALA KHADI GRAMA VYAVASAYA
BOARD), THIRUVANANTHAPURAM-695 001.
6. ASSAIN KOYA, MANATTU, NADUVANNUR P.O.,
KOZHIKODE PIN-673 614.
7. K.M.SATHYAN, THIYYANKANDI, NADUVANNUR P.O.,
KOZHIKODE PIN-673 614.
8. SETHUMADHAVAN, KARUNALAYAM, NADUVANNUR P.O.,
KOZHIKODE PIN-673 614.

Impleaded as per order dated 03.07.2015 in IA 5357/15.

BY SR. GOVERNMENT PLEADER SRI.K.C.VINCENT
BY ADV. SRI.TOM K.THOMAS, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 12-10-2015 ALONG WITH WPC. 24256/2015 AND WPC. 24002/2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX in WP(C).No. 22218 of 2014 (B)

PETITIONER'S EXHIBITS:

EXT.P-1: A TRUE COPY OF THE NOTIFICATION NO.192/96/CO-OP.DATED 18.6.2014 ISSUED BY THE 1ST RESPONDENT

EXT.P-2: A TRUE COPY OF THE ELECTION NOTIFICATION PUBLISHED IN THE MADHYAMAM DAILY DATED 16.7.2014

EXT.P-3: A TRUE COPY OF THE INTERIM ORDER DATED 13.8.2014 IN WPC NO. 21091 OF 2014.

EXT.P-4: A TRUE COPY OF THE G.O(P) NO.44/2014/CO-OP. DATED 20.3.2014

EXT.P-5: A TRUE COPY OF THE G.O(P) NO.102/2014/CO-OP. DATED 12.8.2014

EXT.P6: A TRUE COPY OF THE ORDER NO.192/1996/CO-OP DATED 03.09.2014 OF THE 1ST RESPONDENT

EXT.P7: A TRUE COPY OF THE COMMUNICATION ISSUED BY THE 1ST RESPONDENT DATED 03.09.2014

EXT.P8: A TRUE COPY OF THE ORDER NO.K.B.2089/14/CO-OP DATED 10.03.2015 OF THE REGISTRAR, KERALA KHADI GRAMA VYAVASAYA CO-OPERATIVE SOCIETY, THIRUVANANTHAPURAM

EXT.P6(a): A TRUE COPY OF THE ENGLISH TRANSLATION OF EXT. P6

EXT.P8(a): A TRUE COPY OF THE ENGLISH TRANSLATION OF EXT. P8

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.22218 of 2014, 24002
and 24256 of 2015

Dated this the 12th day of October, 2015

COMMON JUDGMENT

Introduction:

In all the three writ petitions, the petitioners, being the members of the fourth respondent Society, raise the similar, if not identical, issues regarding the election to be held for its managing committee. Accordingly, this Court has proposed to dispose of all the three writ petitions through a common judgment. For the ease of reference and convenience, the facts as pleaded and the parties as arrayed in W.P.(C)No.24002/2015 are taken as the basis.

Facts:

In W.P.(C) No.24002/2015:

2. Briefly stated, the petitioner is a member of the fourth respondent Society, which can admit as members those who intend to conduct business in connection with

black smithy, carpentry and other related trades. The norms of admission are evident from Exhibit P2(a) extract of the bye-laws of the fourth respondent Society.

3. In the course of time, as a preparatory step to hold elections, the fourth respondent published a preliminary voters list. In response, the petitioner submitted Exhibit P4 representation before the Secretary of the fourth respondent raising his objections, the principal one being that out of total 141 members, 36 had been admitted on the basis of false addresses provided by them. According to him, it is in addition to the admission of 29 members, though they do not belong to the area of the Society. In other words, 65 members have been admitted illegally and without due verification.

4. Before the petitioner's objections could be considered, however, on 27.03.2015 the election commission issued Exhibit P3 notification proposing to hold elections on 03.09.2015. Aggrieved, the petitioner has filed

the present writ petition.

In W.P.(C)No.22218/2014:

5. The petitioners, seven in number, all of them being the members of the then regnant managing committee, assailed Exhibit P5 Government Order. In elaboration, it can be said that initially the Government extended the tenure of the managing committee in the wake of ensuing general elections to the Lok Sabha; however, later, it has through Exhibit P5 restricted the said tenure. Aggrieved, the members of the then managing committee have filed the writ petition seeking further extension of their tenure.

6. As can be seen from the record, on 29.08.2014, this Court issued an interim order directing the Government to appoint an Administrative Committee comprising three members drawn from among those of the outgoing managing committee. Accordingly, on 03.09.2014, the Government constituted an Administrative Committee.

7. At any rate, after the expiry of the Administrative Committee's initial period of six months, the Government reconstituted it by replacing the three members from the previous managing committee with three new members.

In W.P.(C)No.24256/2015:

8. The two of the seven petitioners in W.P.(C)No. 22218/2014 have questioned the election notification on the ground that there are no women or SC/ST members to fulfil the statutory obligation under Section 28A of the Act. They have also repeated one of the prayers in W.P.(C)No. 22218/2014: the Administrative Committee originally constituted should be revived.

Submissions:

Petitioners':

9. In the above factual background, the learned counsel for the petitioner in W.P.(C)No.24002/2015 has submitted that pending the writ petition, the Returning Officer, the third respondent, has issued Exhibit P6 final

voters list, presumably, acting on the petitioner's objections in Exhibit P4. In this regard, he contends that the petitioner's grievance—the Society has admitted as members persons with false addresses; it has also admitted outsiders—has been only partially redressed. According to him, only 28 out of 65 members objected against had been removed from the final voters list.

10. It is the specific contention of the learned counsel for the petitioner that the petitioner has, in fact, specified the names of the members who had been disqualified; and yet the Society has allowed most of them to continue. In the end, the learned counsel has urged this Court to direct the second respondent, the Electoral Officer, once again to revise the preliminary voters list inviting objections from all members concerned before the Society could go for elections.

11. Concerning the statutory mandate of Section 28A of the Act, the learned counsel would contend that the

Society has neither any women members nor any SC/ST members to contest the elections. In that regard, the learned counsel has submitted that it is for the Government to exempt the Society from the purview of Section 28A by invoking Section 101 of the Act and proceed with the elections thereafter.

Petitioners' (W.P.(C)Nos.22218/2014 and 24256/ 2015):

12. The learned counsel for the petitioners has strenuously contended that this Court in its interim order dated 29.08.2014 specifically directed the Government to constitute an Administrative Committee comprising three members drawn from the outgoing managing committee. According to him, after the expiry of the initial period of six months, instead of reconstituting the Administrative Committee by inducting new members, the Government ought to have further extended the period of the first Administrative Committee for six more months, i.e., before the elections are held.

13. As regards the statutory stipulation under Section 28A of the Act to have women and SC/ST members on the managing committee, the learned counsel has submitted that this Court in **Kumarakom Lime Shell Co-operative Society Ltd. v. State of Kerala**¹ has answered the issue. According to him, in the absence of members from either of the categories, the Government has to exercise its power under Section 101 of the Act to exempt a particular society from its application, so that it could have its elections without providing any reservation either under women category or under SC/ST category.

14. Summing up his submissions, the learned counsel has submitted that the respondent authorities may take expeditious steps to conduct the elections after obtaining exemption under Section 101 from complying with Section 28A of the Act.

¹ 2012(3) KLT 696

The Respondents':

15. The learned Government Pleader, on his part, has submitted that if the fourth respondent Society approaches the Government seeking exemption from the application of Section 28A, the Government will consider invoking Section 101 of the Act. He has also brought to my notice that initially when Exhibit P3 election notification was issued objections were called for from the members. And the objections were to be filed between 03.08.2015 to 10.08.2015. Before the said period could come to an end and before any other members could file their objections, however, the petitioner in W.P.(C)No.24002/2015 rushed to the Court and obtained a stay. Though the petitioner in the said writ petition filed objections, in the light of the stay granted by this Court before the expiry of the period fixed for objections, other members, even if intended, could not file their objections.

16. According to the learned Government Pleader, it is in the interest of justice to fix a particular date again calling for objections from the members concerning the voters list. So that the authorities, before proceeding further, could adjudicate the issue based on the objections to be filed, essentially taking into account only the preliminary list rather than Exhibit P6, the so called final list.

17. The learned Government Pleader has further contended that once the fourth respondent Society obtains exemption under Section 101 of the Act, it is open for the Election Commission to issue a fresh notification on the strength of the final voters list to be prepared. All the seven seats can be made available, submits the learned Government Pleader, for the general categories, especially in the absence of any woman or SC/ST member.

18. Heard the learned counsel for the petitioners, the learned Government Pleader and the learned Standing Counsel for the respondent Society, apart from perusing the

record.

19. Issues to be addressed are as follows:

1. Whether the Government is justified in replacing the members in the administrative committee with new members in spite of the interim direction of this Court on 29.08.2014.
2. Whether the second respondent is justified in issuing final voters list pending adjudication of the writ petition filed by the petitioner in W.P.(C)No. 24002/2015 concerning the admission of eligible members in the Society.
3. Whether the statutory mandate under Section 28A of the Act is to be invariably complied with notwithstanding the unavailability of any women or persons belonging to Scheduled Caste or Scheduled Tribe as members of the Society.
4. In the alternative, is it imperative for the Government either to nominate women and SC/ST members on the managing committee or exempt the fourth respondent Society from the application of Section 28A of the Act by invoking its power under Section 101 of the Act.

Issue No.1:

20. Indeed, on 29.08.2014, this Court issued an interim direction that Government should constitute an Administrative Committee comprising three members taken

from the outgoing managing committee. Accordingly, the Government did comply with the directive and constituted the Administrative Committee soon thereafter. With the passage of initial six months' time, once its term came to an end, the Government instead of extending the tenure by six more months, as is statutorily permissible, replaced those three members with three new members, drawn from outside.

21. In fact, despite the erstwhile members filing the writ petition, the new Administrative Committee's initial tenure of six months, in the interregnum, already came to an end. Now, the Government is said to have extended the period by six more months.

22. First, the interim order dated 29.08.2014 has not contained any express direction that, for the entire length of one year, the same Administrative Committee should be continued. The Government is statutorily empowered either to continue the same Administrative Committee for six more

months or to have new members inducted in their place. It is axiomatic to observe that unless the restriction is explicit, no constraint can be read into any judicial order, especially to impose fetters on the power of the executive. In that context, I am inclined to hold that the replacement of members of the Administrative Committee by new members cannot be found fault with. Even otherwise, much water has flowed since the date of replacement of the members of the Administrative Committee. At this juncture, turning the clock back is inadvisable. Accordingly, I hold the issue against the petitioners in W.P.(C)No.22218/2015, two of whom are the petitioners in W.P.(C)No.24256/2015 as well.

Issue No.2:

23. As can be seen from the record, the petitioner in W.P.(C)No.24002/2015 submitted Exhibit P4 objection concerning what is said to be the admission of bogus members into the fold of the Society. Soon thereafter, when Exhibit P3 election notification was issued, he filed the writ

petition and got the elections stayed. In the meanwhile, pending the writ petition, the second respondent, ostensibly, acting on the objection filed by the petitioner, issued Exhibits P6 final voters list.

24. It is the specific grievance of the learned counsel for the petitioner that the petitioner initially pointed out that 65 members had been admitted in violation of the bye-laws; however, the second respondent could remove only 28 members out of those 65. The fact further remains that in the light of the interim stay granted by this Court, other members had no occasion, even if they intended, to file objections against the preliminary voters list. Under these circumstances, I find sufficient force in the submission of the learned Government Pleader as well as the learned counsel for the petitioners in W.P.(C)No.24002/2015.

25. In elaboration, I may observe that in Exhibit P4 letter of objection, the petitioner did mention the names of all the 65 persons, who were said to have been inducted as

members in violation of the bye-laws. Exhibit P6 final voters list, issued *lis pendens*, did not contain any specific reason why only 28 members had been identified to have been illegally admitted. In other words, not much reasoning is coming forth from the second respondent concerning the legitimacy of the rest of the members, whose names have been pointed out by the petitioner.

26. Under these circumstances, this Court makes it clear that when the Election Commission issues a fresh notification care should be taken for re-scheduling the dates for filing objections based on which the second respondent shall consider the objections already received as well those to be received and later publish the final voters list. As a natural corollary, Exhibit P6 is set aside.

Issue Nos.3 & 4:

27. Indeed, it is not in dispute that Section 28 of the Act mandates that a Society or its managing committee shall have adequate representation for women and

members from the SC/ST communities. In that context, it is profitable to extract Section 28A of the Act, which reads as follows:

28A. Reservation for women members and members belonging to Scheduled Castes or Scheduled Tribes in the committee:-

(1) Notwithstanding anything contained in this Act, the rules or the bye-laws, there shall be reserved in the committee of every society, (three of the total seats for women members) one seat for a member belonging to the Scheduled Castes or the Schedules Tribes.

(2) Nothing contained in sub-Section (1) shall prevent the women members and members belonging to the Scheduled Castes or Scheduled Tribes from being elected to the non-reserved seats in the committee.

(3) Where there is no representation of woman or members belonging to Scheduled Castes or Scheduled Tribes in the committee of a society including those of the societies formed exclusively for the benefit of women and for persons belonging to Scheduled Castes or Scheduled Tribes, the Government or the Registrar shall nominate women and persons belonging to the Scheduled Castes or Scheduled Tribes, to the elected committee **from among the members of such societies.**

(4) A person nominated to the committee of a society or Bank shall have all the powers of a member elected to such committee and shall hold office during the pleasure of the Government or the Registrar, as the case may be."

(emphasis supplied)

28. Viewed in the perspective of the above statutory mandate, it is not in dispute that the Society, having 141 members, has neither a woman nor any person from SC/ST community as its member. Under these circumstances, the question that falls for consideration is, how is the statutory mandate of Section 28A of the Act required to be complied with, admittedly when there are no members from either of these two categories? Or, does it require any compliance at all?

29. Constitutionally consecrated is the principle of affirmative action that the marginalized sections of the society have to be given adequate representation in every walk of life, be it employment or any State activity, where, owing to inherent limitations, these marginalized sections of the society suffer from not having an effective participation or even representation. Nevertheless, both Articles 15 and 16, being the instances of the purpose-specific expansion of Article 14 of the Constitution of India, have only enabled the

State to take remedial measures to ensure adequate representation for the marginalised sections of the society.

30. Indeed, on a horizontal principle of reservation, the rights of women are protected; whereas, on a vertical principle, the rights of persons belonging to SC/ST and other downtrodden communities are protected.

31. Viewed in that perspective, as and when there are otherwise eligible members from these communities, and if they cannot compete in the general stream, it is the obligation of the State to protect their interest by providing reservation: to ensure their adequate representation.

32. Evidently, the Constitutional mandate under Article 15 has been given a statutory shape in Section 28A of the Act. Thus, Section 28A can be interpreted taking into account the judicial view on Article 15 of the Constitution. The provision cannot, however, be placed on a higher pedestal.

33. In **Kasambhai F. Ghanchi v. Chandubhai D. Rajput**², the Hon'ble Supreme Court has observed that the

² (1998) 1 SCC 285

idea of providing reservation for the benefit of the weaker sections of the society is not only to ensure their participation in the conduct of the affairs of the municipality but also to improve their lot. The reservation ensures that the specified minimum number of persons belonging to that category become members of the municipality. Adverting to the issue as to how the reservations are to be applied, their Lordships have held thus:

“16. The Act and the Rules provide for reservation for Scheduled Castes, Scheduled Tribes, Backward Classes and women. No reservation or classification is made ward-wise. To put it differently all members of the Scheduled Castes, for example, will be regarded as belonging to one class irrespective of the fact whether they had been elected to a reserved seat or to a general seat. Similar is the position with regard to the Backward Classes, Scheduled Tribes and women. The law does not contemplate or provide for any further sub-classification of the type which has been suggested by the respondents. Just as all members of the municipality, irrespective of the fact whether they had been elected to a reserved seat or not, are eligible for election to the post of the President when it falls in the general category, similarly when as per the roster the President is to be one who, say, belongs to the category of Scheduled Caste then all members of the municipality who are Scheduled Caste, irrespective of the seat to which they had been elected, would be eligible to stand for election. Neither the Act nor the Rules stipulate that it is only such a member who has been elected to the reserved seat who

would be eligible to stand for election to the post of President when it is the turn of that category of candidate to become the President of the municipality.”

34. Elaborating on the concept of 'General Category', the Apex Court in **Bihari Lal Rada v. Anil Jain (Tinu)**³ has held that obviously there cannot be any such reservation of seats in municipalities nor to the office of the Chairperson in favour of the candidates belonging to the general category. There is no separate category like general category. The expression “belonging to the general category” wherever employed means the seats or offices earmarked for the persons belonging to all categories irrespective of their caste, class or community or tribe. The unreserved seats euphemistically described as general category seats are open seats available for all candidates who are otherwise qualified to contest to that office.

35. In relation to the facts on hand, I may observe that whenever the circumstances present themselves warranting protection for the women or the members from

³ (2009) 4 SCC 1

the Scheduled Caste and Scheduled Tribe, Article 15 of the Constitution, qua Section 28A of the Act, springs into action. If this principle is conversely applied, it is clear that once those circumstances do not present themselves, just for the sake of complying with Section 28A of the Act, there is no need to contrive the very circumstances.

36. Differently expressed, in all situations, whenever a society has women or persons from SC/ST communities as its members, they are to be given protection of adequate representation through the invocation of Section 28A of the Act.

37. If we briefly revisit Section 28A of the Act, the phraseology eloquently exemplifies, without any external aid, the provision's scope and ambit. In sub-sections (1) and (2) the expression used is 'members'. In the context of the Act, the two expressions 'a person' and 'a member' are as different as chalk and cheese. On a very fundamental syllogism, every member is a person, but not every person a

member; therefore, the adequacy of representation is member specific. Sub-section (3), in fact, throws a flood of light on this dark statutory interstice, as it were. According to the said provision, if there is no adequate representation on the committee to the members belonging either of these two categories, the Government or the Registrar shall nominate them from among the members of such societies. Thus, the sine qua non to apply this provision is presence of the persons from these categories among the members of the Society.

38. It is a stark fact that despite the State's best efforts to establish an egalitarian society—even a utopian classless and caste less one—the stratification of the society on the lines of caste dictating the occupational choices, rather compulsions, especially involving the manual labour and skill, could not easily be diluted. Thus, it is not far to visualise that in the light of those intrinsic and invisible iron curtains, unfortunately though, in the name of caste and the

compulsive occupational choices, no woman and not many people from SC/ST communities have chosen a profession like black smithy.

39. Historically viewed, the constraints of Common Law have been sought to be overcome with the equity jurisprudence by the Courts of Chancery. Those equity principles have survived in the form of Maxims, which abound, especially, on the issue of the law compelling any impossible, or even an idle, act to be performed. To be illustrative, the maxim *Impotentia excusat legem* means the impossibility excuses the law; similarly, *Lex non cogit ad impossibilia* means the law requires not impossibilities; and *Lex non intendit aliquid impossibile* means that the law intends not anything impossible.

40. Wharton's **Legal Maxims** (1878) at 341 records the maxim *Nemo tenetur ad impossibile*, i.e., no one is bound to an impossibility. In elaboration, it opines that the law neither does nor requires idle acts. It is a settled

principle, says Chancellor Kent, that a court will not undertake to exercise a power, unless it can exercise it to some purpose. It will, for example, refuse a writ of mandamus, if it is manifest that it must be vain and fruitless, or cannot have a beneficial effect. A demand is excused, when compliance therewith is impossible. The same principle, to my mind, applies with equal vigour, vis-à-vis, the quasi-judicial and even purely administrative sections of the State, too.

41. Similar is the observation at page 95 of the commentary: 'impotentia excusat legem', i.e., impotency excuses law. In elaboration, it is held thus:

“All things directed by the law to be done, are supposed possible of performance, but when the contrary is shown, performance will be excused, as in the case of a mandamus directed to some public, judicial, or ministerial officer or corporate body, commanding the performance of some public duty which case, when, by the return to the mandamus, compliance is shown to be impossible, performance will be excused. Nor will a mandamus be granted unless it clearly appears to the court that the party to whom it is directed has by law power to do what he is thereby commanded.”

42. To sum up the above discussion, I may observe that a cause needs a remedy, not a remedy a cause. It is, thus, *ubi jus ibi remedium* but not *ubi remedium ibi jus*.

43. Examined in the same vein, a society like the fourth respondent would not have in its fold any member from either of those two streams: woman and SC/ST. It is one thing to say that a person being a woman or belonging to SC/ST category has been denied admission into a society merely based on her or his gender/caste; it is entirely a different thing, however, to hold that no person from either of those streams has come forward to be a member. In my considered view, the succour of Section 28A of the Act is available so long as any of the persons whose interest is required to be protected is a member of the society, in the first place.

44. Thus, Section 28A is only a consequence or a corollary to the presence of the persons whose interest is sought to be protected in the first place. In other words, just

for the sake of Section 28A neither the society nor the State is compelled to bring into the fold of any society a member belonging to either of those sections. Nor is it required that Section 28A has to be exempted from operation in terms of Section 101 of the Act.

45. Succinctly stated, the remedy can neither control nor contrive the cause, for the resolution or alleviation of which alone the remedy has been brought into being in the first place. Protective discrimination is a constitutionally consecrated principle; but that principle to be applied, the circumstances should exist.

46. Indeed, a learned Division Bench of this Court in **Kumarakom Lime Shell Co-operative Society Ltd.** (supra) has observed that if women are unfit or unwilling to engage in the work in which the members of the society are engaged as there is no scope for their enrolment as members, it is for the Government to exempt the said society from the purview of Section 28A of the Act by taking

recourse to Section 101 of the Act. Though the judgment has unquestionable precedential value, I am, however, of the opinion that their Lordships have not laid down as an invariable principle that the Government should exempt, under all circumstances, the Society as per Section 101, even in the face of inapplicability of Section 28A of the Act. As such, I hold that once the Society does not have in its fold member from either of those categories, the question of enforcing Section 28A does not arise.

Conclusion:

47. In the facts and circumstances, this Court holds that the Administrative Committee is at liberty to pass a resolution and forward the same to the Election Commission to have the elections to the managing committee on a fixed date and venue. Needless to observe that the managing committee, the Government, and the Election Commission shall take all the necessary steps in accordance with law to hold the elections at the earliest point of time, of course,

subject to the directions and observations made in the present judgment.

48. The election Commission is, therefore, required to issue the notification making it clear that all seven seats shall be open for the general category in the absence of any candidate qualifying in terms of Section 28A of the Act. At the same time, *ex abundanti cautelia*, it is also made clear that in the course of time if any women or persons belonging to SC/ST join the Society, Section 28A, needless to observe, springs into action.

With the above observation, the writ petition is disposed of. No order as to costs.

Dama Seshari Naidu, Judge

rv/tkv

'C.R.'