

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 4TH DAY OF AUGUST 2015/13TH SRAVANA, 1937

WP(C).No. 22806 of 2015 (A)

PETITIONER : -

JOJO JOSEPH,
VILANGU PARAYIL,
KURIANAD P.O.,
KOTTAYAM.

BY ADVS.SRI.P.RAMNDRAN (SR.)
SRI.M.R.SABU

RESPONDENTS :-

1. THE DEPUTY DIRECTOR OF DAIRY DEVELOPMENT,
KOTTAYAM DISTRICT - 686 001.
2. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
AGRICULTURAL AND DAIRY DEVELOPMENT DEPARTMENT,
THIRUVANANTHAPURAM - 695 001.
3. KURIANAD KSHEEROLPADAKA
SAHAKARANA SANGHAM NO.K-69 (D), APCOS,
KURIANAD P.O., PIN - 686 636,
REPRESENTED BY ITS SECRETARY.

BY Spl. GOVERNMENT PLEADER SRI. D. SOMASUNDARAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
04-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS : -

- EXT.P-1 : TRUE COPY OF THE JUDGEMENT IN WPC NO.3497/13 DATED 29.10.2013.
- EXT.P-2 : TRUE COPY OF THE NOTICE DATED 18.2.2014 AND THE TRANSLATION OF EXT.P2.
- EXT.P-3 : TRUE COPY OF THE JUDGEMENT IN WP NO.5806/14 DATED 10.2.2015.
- EXT.P-4 : TRUE COPY OF THE OBJECTION DATED 23.2.2015.
- EXT.P-5 : TRUE COPY OF THE ORDER DATED 18.5.2015.
- EXT.P-6 : TRUE COPY OF THE APPEAL MEMORANDUM DATED 22.5.2015.
- EXT.P-7 : TRUE COPY OF THE APPLICATION FOR STAY DATED 22.5.2015.
- EXT.P-8 : TRUE COPY OF THE JUDGEMENT IN WPC NO.15439/2015 DATED 26.5.2015.
- EXT.P-9 : TRUE COPY OF THE HEARING NOTICE DATED 28.6.2015 WITH TRANSLATION.
- EXT.P-10 : TRUE COPY OF THE REQUEST DATED 14.7.15.
- EXT.P-11 : TRUE COPY OF THE MEDICAL CERTIFICATE DATED 10.7.2015.
- EXT.P-12 : TRUE COPY OF THE GOVERNMENT ORDER DATED 23.7.2015 WITH TRANSLATION.
- EXT.P-13 : TRUE COPY OF THE COMMUNICATION OF THE 1ST RESPONDENT DATED 24.7.2015 WITH TRANSLATION.
- EXT.P-14 : TRUE COPY OF THE DETAILS RECEIVED FROM THE POSTAL AUTHORITIES.

RESPONDENTS' EXHIBITS : - NIL.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 22806 of 2015

Dated this the 04th day of August, 2015

JUDGMENT

Heard the learned Senior Counsel for the petitioner and the learned Government Pleader for the respondents, 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. The facts in brief are that the petitioner being the elected President of the third respondent Society, all along, has been resisting the efforts of the respondent authorities to supersede the Board of Directors of the third respondent Society. The initial order of supercession was quashed by this Court through Exhibit P1 judgment. Subsequently, when the first respondent again issued a notice for supercession based on the very same set of allegations, this Court enabled the petitioner to raise his objections against

the notice and ordered the first respondent to consider the objections on merits, apart from observing that in the event of the orders to be passed being adverse, they should not be given effect for a period of one week.

3. Predictably, when the first respondent passed adverse orders of supercession, the petitioner filed a statutory appeal against the order of supercession before the Government, the Appellate Authority. Subsequently, in W.P. (C) No.15439/2015 filed by the petitioner, through its Exhibit P8 judgment, this Court has further required the Government to take a decision on the issue expeditiously.

4. In the light of the direction given by this Court in Exhibit P8, when the petitioner received a communication from the Government that the matter would be taken up for hearing on 17.07.2015, the petitioner, allegedly undergoing medical treatment, is said to have submitted Exhibit P10 application for adjournment of the hearing. Eventually, disregarding the plea of the petitioner, the second respondent passed Exhibit P12 order. Under these circumstances, the petitioner has approached the Court.

5. The relevant portion of Exhibit P12 reads as follows:

“On 17.07.2015 at 3.00 p.m, the representative of the Director of Dairy Development, Deputy Director, Kottayam and the Dairy Development Officer, Uzhavoor etc appeared for the hearing and submitted their arguments. Neither the President, Secretary or their representatives were present, nor any intimation given either in writing or by telephone as to any inconvenience in attending the hearing.”

6. The learned Government Pleader has fairly submitted that the second respondent does not have any objection if Exhibit P12 is set aside and the matter is remanded for fresh consideration. He has further contended that in view of the controversy the issue has generated, it is desirable that the petitioner specify a date of convenience, so that the second respondent could have the hearing on the same day in the presence of the petitioner. The learned counsel having had the matter passed over, submitted in the afternoon, evidently on instructions, that 03.09.2015 would be convenient for the petitioner.

7. In the facts and circumstances, having regard to the respective submissions of the learned counsel for the

petitioner and the learned Government Pleader, this Court hereby sets aside Exhibit P12 order. Consequently, it remands the matter to the second respondent, who shall decide Exhibit P6 appeal along with Exhibit P7 stay petition afresh on 03.09.2015, which date is fixed as per the request of the learned Government Pleader and the convenience of the petitioner.

It is made clear that in the light of the fixation of a specific date, no further notice is required to be given to the petitioner. As a result, Exhibit P5 supercession order is kept in abeyance until the disposal of Exhibit P6 appeal. It is, however, made clear that since the term of the then managing committee came to an end, there shall not be any hindrance for the Administrator to discharge his functions.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-