

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 5TH DAY OF AUGUST 2015/14TH SRAVANA, 1937

WP(C).No. 23413 of 2015 (B)

PETITIONER:

THE NATIONAL INSTITUTE OF TECHNOLOGY
MULTI PURPOSE CO-OPERATIVE SOCIETY LTD NO.1883
(NIT MULTIPURPOSE CO-OPERATIVE SOCIETY LTD.)
NIT POST, KOZHIKODE REP. BY ITS HONORARY SECRETARY.

BY ADV. SRI.P.P.JACOB

RESPONDENTS:

1. M.K. GOPALAN, MAYYANKANDIYIL, P.O.CHULLOOR,
POOLAKODE AMSOM, VELLANNUR DESOM,
KOZHIKODE-673 601.
2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G),
KOZHIKODE, OFFICE OF THE JOINT REGISTRAR OF
CO-OPERATIVE SOCIETIES (G), PUTHIYARA,
KOZHIKODE-673 004.
3. THE STATE CO-OPERATIVE ARBITRATION COURT,
KOZHIKODE, (NORTH WING), 5TH FLOOR,
KERALA STATE CO-OPERATIVE HOUSING FEDERATION
BUILDING, ERANJIPALAM, NEAR PASSPORT OFFICE,
KOZHIKODE-673 006.

R2 & R3 BY SR.GOVERNMENT PLEADER SRI.K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
05-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 23413 of 2015 (B)

PETITIONER'S EXHIBITS:

EXHIBIT-P1: TRUE PHOTOCOPY OF THE ORDER ISSUED BY THE SECOND RESPONDENT DATED 12.10.2009.

EXHIBIT-P2: TRUE PHOTOCOPY OF THE A.R.C.10/2001 FILED BEFORE THE SECOND RESPONDENT DATED 24.2.2001.

EXHIBIT-P3: TRUE PHOTOCOPY OF THE ORDER DATED 11.2.2003 ISSUED BY THE SECOND RESPONDENT.

EXHIBIT-P4: TRUE PHOTOCOPY OF THE A.R.C.123/2011 DATED 26.11.09 PENDING BEFORE THE 3RD RESPONDENT.

EXHIBIT-P5: TRUE PHOTOCOPY OF THE LETTER SUBMITTED BY THE PETITIONER BEFORE THE SECOND RESPONDENT DATED 18.9.2004.

EXHIBIT-P6: TRUE PHOTOCOPY OF THE APPLICATION FILED UNDER RIGHT TO INFORMATION ACT DATED 25.7.2015 BY THE PETITIONER.

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.23413 of 2015 B

Dated this the 5th day of August, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Government Pleader for respondents 2 and 3, 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 petitioner Society, being the employer of the first respondent, initially requested the second respondent to initiate an enquiry against the first respondent under Section 65 of the Kerala Co-operative Societies Act, on the alleged ground of misappropriation of its funds. Acting on the request of the petitioner, the second respondent did enquire under Section 65 and later based on the enquiry report, the authority has further initiated surcharge proceedings under Section 68 of the Act. In the

meanwhile, the petitioner, being the employer, initiated disciplinary proceedings against the first respondent and eventually terminated him from service.

3. Aggrieved, the first respondent filed a petition under Rule 176 of the Kerala Co-operative Societies Rules before the second respondent seeking to rescind the resolution passed by the petitioner terminating him from service. The second respondent has, however, rejected the said petition through Exhibit P1 order. In course of time, the petitioner filed, in terms of the amended Section 69 of the Act, an application before the second respondent for determination of monetary dispute regarding misappropriation of funds alleged to have been committed by the first respondent. On the other hand, the first respondent filed A.R.C.No.123/2011 before the third respondent raising non-monetary dispute; namely, the issue of his removal from service.

4. Evidently the matter before the third respondent has been pending since 2010, whereas the application filed by the petitioner before the second respondent to determine the monetary dispute has been pending since 2001. Understandably, owing to the inordinate delay in the disposal of the matter, the third respondent seems to have been insisting that the petitioner shall assist the court in having the matter disposed of expeditiously.

5. Since the petitioner is said to have placed all the relevant material before the second respondent, it has sought further time before the third respondent to place the said material on record in support of its contentions in ARC. At any rate, the third respondent has given two weeks' time to the petitioner and posted the matter to 06.08.2015.

6. In the light of the need to produce the relevant record before the third respondent, the petitioner is said to have submitted Exhibit P6 application before the second

respondent seeking production of certain documents to be placed before the third respondent. The petitioner has also placed before the second respondent Exhibit P5 as a matter of proof that earlier the relevant records have been placed before the said authority. When the second respondent has not provided the documents sought by the petitioner, it has approached the Court by filing the present writ petition.

7. In response to the submissions made by the learned counsel for the petitioner, the learned Government Pleader has submitted that most of the records in A.R.C.No. 10/2001 have already been transmitted to the third respondent. He has further submitted that the other documents sought by the petitioner under Right to Information Act are kept ready for issuance and will be given in a week's time, provided the petitioner approaches the authority and remits the fee in that regard.

8. As the petitioner apprehends that in the meanwhile the third respondent may not extend the time to enable him to produce the documents, he seeks intervention of this Court.

9. Firstly, this Court is loath to interfere with the discretion or the mode of adjudication by the third respondent, a quasi-judicial authority having its independent power. At the same time, it is evident that the petitioner could not produce the documents despite his best efforts. Denial of opportunity, despite the delay in the disposal of the matter, may affect the institutional interest of the petitioner. It meets, I believe, the interest of justice, if the petitioner is given initially two weeks' time to enable it to produce the required records which it wanted to rely on before the third respondent.

Accordingly, having regard to the respective submissions of the learned counsel for the petitioner and

the learned Government Pleader, this Court disposes of the writ petition with liberty to the petitioner to produce the relevant record before the third respondent within two weeks from the date of receipt of a copy of this judgment.

Needless to observe that the third respondent is required to adjourn the matter by two more weeks to facilitate the petitioner to produce the records. It, however, goes without saying that if the petitioner fails to produce the relevant documents within the stipulated time, the third respondent is at liberty to proceed further with the matter. The issue with regard to expeditious disposal of Exhibit P2 proceedings by the second respondent is left open, especially given the fact that all relevant records are said to have been transmitted to the third respondent.

Dama Seshadri Naidu, Judge

tkv