

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

WP(C).No. 25419 of 2015 (B)

PETITIONER:

THE MULLOOR RURAL CO-OPERATIVE SOCIETY LTD.
NO.T.1499, MULLOOR P.O., THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY.

BY ADV. SRI.K.B.PRADEEP

RESPONDENTS:

1. THE GOVERNMENT OF KERALA
REP. BY THE PRINCIPAL SECRETARY,
DEPARTMENT OF CO-OPERATION,
THIRUVANANTHAPURAM PIN 695 001.
2. THE JOINT REGISTRAR (GENERAL),
CO-OPERATIVE DEPARTMENT,
THIRUVANANTHAPURAM PIN 695 001.

BY SR.GOVERNMENT PLEADER SRI.K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
19-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 25419 of 2015 (B)

PETITIONER'S EXHIBITS:

EXHIBIT-P1: THE TRUE COPY OF THE ORDER RECEIVED BY THE PETITIONER ON 28.01.2015.

EXHIBIT-P2: TRUE COPY OF THE APPEAL NO.1827/C-1/2015/CO-OP.

EXHIBIT-P3:THE TRUE COPY OF THE ORDER DT.17.4.2015 BY THE GOVERNMENT PASSED IN EXT.P2 APPEAL.

EXHIBIT-P4:THE TRUE COPY OF THE JUDGMENT DATED 5.6.2015 IN W.P.(C) NO.15857/2015 OF THIS HON'BLE COURT.

EXHIBIT-P5: THE TRUE COPY OF ORDER NO.GO (ORDINARY) 428/2015 DATED 29.7.2015 DISMISSING EXHIBIT-P2 APPEAL, PASSED BY THE GOVERNMENT ALONG WITH A TRANSLATION OF THE SAME IN ELGLISH LANGUAGE.

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.25419 of 2015 B

Dated this the 19th day of August, 2015

JUDGMENT

The petitioner, a registered co-operative society primarily engaged in rural area banking, has a grievance that the respondent authorities have been proceeding with an enquiry under Section 66 of the Kerala Co-operative Societies Act ('the Act' for brevity), though no grounds, prima facie, have been established for the said purpose.

2. In elaboration, it can be stated that initially when the second respondent issued Exhibit P1 proceedings of enquiry, the petitioner filed Exhibit P2 statutory appeal, which was rejected by the first respondent through Exhibit P3 order on the ground that it was not maintainable. Aggrieved, the petitioner filed W.P.(C)No.15857/2015 before this Court and invited Exhibit P4 judgment. In fact, this Court, having found that Exhibit P2 appeal is

maintainable, remanded the matter.

3. On remand, the first respondent passed Exhibit P5 order rejecting the contentions of the petitioner, apart from holding that the enquiry can be proceeded with. Under these circumstances, the petitioner has approached this Court by filing the present writ petition.

4. The learned counsel for the petitioner has contended that the enquiry has been ordered at the behest of certain disgruntled elements, who do not have any locus standi. It is also submitted that despite voluminous records produced by the petitioner, the first respondent has not taken into account any of them and has straightaway rejected the claim through Exhibit P5 order. According to the learned counsel, the whole enquiry is fait accompli and it was ordered with an oblique motive.

5. The learned Government Pleader, on the other hand, has submitted that based on the complaints from the

third parties, there was a preliminary enquiry by the Assistant Registrar. Acting on the report submitted by the Assistant Registrar, who, prima facie, found that there was substance in the complaints made against the petitioner, the authorities have proceeded further with the enquiry. The learned Government Pleader has submitted that the apprehension of the petitioner that its defence will not be taken into account is entirely misplaced.

6. Be that as it may, this Court is not inclined to stultify the statutory efforts of the respondent authorities in having an enquiry into the affairs of the petitioner society under Section 66 of the Act. At the same time, there is sufficient force in the submission made by the learned counsel for the petitioner that its defence ought to have been considered by examining the records submitted by the petitioner.

7. In my considered view, it meets the ends of justice if the authorities are permitted to continue with the enquiry under Section 66. They are, however, required to consider the defence of the petitioner, especially concerning the classification, staff pattern and other related aspects.

8. It is the specific contention of the learned counsel for the petitioner that if at all there is any delay in having the society's classification or staff pattern fixed, it was caused at the official level, inasmuch as the petitioner society has submitted the necessary applications long back.

Making it clear that the petitioner is at liberty to submit all its defence during the course of enquiry and that in such an event, the enquiry officer shall consider all aspects, including the defence submitted by the petitioner, this Court disposes of the writ petition. No order as to costs.

Dama Seshadri Naidu, Judge

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