

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

WEDNESDAY, THE 28TH DAY OF OCTOBER 2015/6TH KARTHIKA, 1937

WP(C).No. 31582 of 2014 (W)

PETITIONER : -

DEVASIA C.J., CHUCKANANIYIL,
THULAPPALLY P.O., VATTAPPARA,
PATHANAMTHITTA DISTRICT - 686 510.

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

RESPONDENTS : -

1. THE VENKURINJI SERVICE CO-OPERATIVE BANK LTD. NO. 3023,
REPRESENTED BY ITS SECRETARY, MUKKOOTTUTHARA P.O.,
PATHANAMTHITTA DISTRICT - 686 510.
2. THE BOARD OF DIRECTORS OF THE VENKURINJI SERVICE
CO-OPERATIVE BANK LTD. NO. 3023,
REPRESENTED BY ITS PRESIDENT,
MUKKOOTTUTHARA P.O.,
PATHANAMTHITTA DISTRICT - 686 510.
3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),
PATHANAMTHITTA, PATHANAMTHITTA DISTRICT - 689 645.

R3 BY GOVERNMENT PLEADER SRI. G. GOPAKUMAR
R1-R2 BY ADV. SRI. PRASAD CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
28-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS : -

EXHIBIT P1: COPY OF THE DISABILITY CERTIFICATE DATED 06/03/2012 ISSUED BY THE MEDICAL BOARD, GENERAL HOSPITAL, PATHANAMTHITTA.

EXHIBIT P2: COPY OF THE HALL TICKET ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXHIBIT P3: COPY OF THE LETTER DATED 13/11/2014, ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXHIBIT P4: COPY OF THE ORDER NO. CRP (2) 4206/2014 DATED 14/08/2014 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT P5: COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE 3RD RESPONDENT DATED 13/11/2014.

EXHIBIT P2(a) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P2.

EXHIBIT P3(a) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P3.

EXHIBIT P4(a) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P4.

EXHIBIT P5(a) : TRUE COPY OF THE ENGLISH TRANSLATION OF EXHIBIT P5.

RESPONDENTS' EXHIBITS : -

EXHIBIT R2(a) : COPY OF THE LIST OF EMPLOYEES IN THE 1st RESPONDENT SOCIETY AS ON 28.02.2015.

EXHIBIT R2(b) : COPY OF THE RESOLUTION No.234/14-15 DATED 06.03.2015 OF THE 2nd RESPONDENT ALONG WITH ENGLISH TRANSLATION.

// TRUE COPY //

P.A. TO JUDGE

DMR/-

DAMA SESHADRI NAIDU, J.

W.P.(c) No. 31582 of 2014

Dated this the 28th day of October, 2015

JUDGMENT

The petitioner, a physically challenged person, being a prospective job seeker, in response to the notification issued by the first respondent Bank, applied to the post of Peon and appeared for the written test and also interview held on 16.08.2014. When nothing further had happened despite lapse of sufficient time, the petitioner submitted a representation to the first respondent on 12.11.2014 urging the Bank to complete the recruitment process expeditiously. In turn, the respondent Bank informed the petitioner through Exhibit P3 that in the light of the Exhibit P4 order passed by the Joint Registrar it could not proceed further with the recruitment process.

2. In turn, the petitioner submitted Exhibit P5 representation to the Joint Registrar urging the said authority to take appropriate steps to permit the respondent Bank to complete the recruitment process. When the Joint Registrar

remained unresponsive, the petitioner has filed the present writ petition.

3. The learned counsel for the petitioner has submitted that the petitioner has been qualified, especially being a physically challenged person, and that the Joint Registrar ought not to have issued Exhibit P4 blanket order against the recruitment; thereby affecting the job prospects of not only the petitioner, but also many other similarly placed persons.

4. The respondent Bank has filed a counter affidavit contending that the notification issued by it is justifiable and that there is an acute shortage of staff. In fact, the learned counsel for the respondent Bank has taken me through the entire record and has submitted that Exhibit P4 should be vacated so that the respondent Bank could proceed further with the recruitment.

5. The learned Government Pleader, on the other hand, has submitted that in the light of reclassification of the respondent Bank, it has so far not had its staff pattern fixed. According to him, it is entitled to have only one vacancy of Peon and its notification for two more vacancies could not be

sustained. Though the learned Government Pleader has urged other issues concerning the validity of the notification issued by the respondent Bank, for the present purpose it may not be germane.

6. Indeed, initially soon after the respondent Bank issuing the recruitment notification, the Joint Registrar, the third respondent, seems to have issued a blanket order on 13.07.2014 interdicting the entire recruitment process. Later, through Exhibit P4, the said official modified the order permitting the respondent Bank to conduct its examination and interview on 16.08.2014, as had been previously fixed.

7. In the counter affidavit filed by the third respondent, he has supplied cogent reasons why he was constrained to issue Exhibit P4 order. The fact, nevertheless, remains that Exhibit P4 being only interim in nature, the Joint Registrar ought to have further proceeded with the issue and passed final orders after hearing the parties concerned, if necessary. In the present instance, it has not happened despite the lapse of more than a year's time.

8. At this juncture, the learned Government Pleader has submitted that in view of the pendency of the writ petition, the third respondent could not proceed further. I do not however see any interim direction issued by this Court restraining the third respondent from proceeding further with the issue. It is trite to observe that mere pendency of a writ petition does not come in the way of an authority exercising its statutory powers, if available.

9. This Court cannot go into the disputed questions of fact, especially concerning the staff pattern of the respondent Bank and also the need of recruitment in the light of its reclassification. It is only appropriate for this Court to direct the third respondent to consider the issue in furtherance of Exhibit P4 interim direction and pass final orders as expeditiously as possible.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner, the learned counsel for the respondent Bank, as well as the learned Government Pleader, this Court, without advertng to the merits of the matter, disposes of the writ

petition with a direction to the third respondent to consider the issue raised by him in Exhibit P4 order after hearing the respondent Bank and pass appropriate orders thereon as expeditiously as possible, at any rate, within a period of six weeks from the date of receipt of a copy of this judgment. No order as to costs.

**DAMA SESHADRI NAIDU
JUDGE**

DMR/-