

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

THURSDAY, THE 8TH DAY OF JANUARY 2015/18TH POUSHA, 1936

WP(C).No. 34278 of 2014 (H)

PETITIONER:

THE BOARD OF DIRECTORS OF THE POOTHAKULAM SERVICE
CO-OPERATIVE BANK LIMITED NO.2944,
POOTHAKULAM, KOLLAM DISTRICT
REPRESENTED BY ITS PRESIDENT.

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENTS:

1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695001.
2. THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM-695001.
3. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES(GENERAL),
OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
KOLLAM-691001.
4. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES(GENERAL),
OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
KOLLAM-691001.
5. SRI.SUNDARESAN,
ENQUIRY OFFICER, (UNIT INSPECTOR
OFFICE OF THE ASSISTANT REGISTRAR
OF CO-OPERATIVE SOCIETIES(GENERAL)
KOLLAM-691001.

R BY SPL. GOVERNMENT PLEADER D.SOMASUNDARAM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
08-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1 TRUE COPY OF THE NOTICE DATED 11/10/2011 ISSUED BY THE 3RD
RESPONDENT

EXT.P2 TRUE COPY OF THE EXPLANATION DATED 31/10/2011

EXT.P3 TRUE COPY OF THE ORDER ISSUED BY THE 3RD RESPONDENT DATED
22/11/2011

EXT.P4 TRUE COPY OF THE REPORT DATED 31/01/2012

EXT.P5 TRUE COPY OF THE APPROVAL GRANTED TO THE SOCIETY ON 03/10/2007

EXT.P6 TRUE COPY OF THE ORDER EVIDENCING THIS FACT DATED 19/08/2010

EXT.P7 TRUE COPY OF THE ORDER ISSUED BY THE 3RD RESPONDENT DATED
01/10/2011

EXT.P8 TRUE COPY OF THE JUDGMENT IN W.A.2196 AND 2198/2012

EXT.P9 TRUE COPY OF THE NOTICE DATED 23/08/2014

EXT.P10 TRUE COPY OF THE NOTES OF SUBMISSION MADE BY THE MANAGING
COMMITTEE

EXT.P11 TRUE COPY OF THE ORDER ISSUED BY THE 3RD RESPONDENT DATED
13/11/2014.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.S. TO JUDGE.

V.CHITAMBARESH, J.

W.P (C) No.34278 of 2014

Dated this the 8th day of January, 2015

J U D G M E N T

Ext.P11 order merely authorises the Inspector attached to the office of the fourth respondent to report after an enquiry under Section 68(1) of the Kerala Co-operative Societies Act. The necessity to give an opportunity of being heard to the person sought to be saddled with the liability arises only thereafter under Section 68(2) of the said Act. Ext.P11 order has been issued pursuant to an inspection conducted under Section 66 of the Act. An opportunity of being heard under Section 66(5) of the Act does not arise except when there is a proposal of the Registrar to order cost of Inspection. [See State of Kerala v. Aravindakshan Nair (2010 (3) KLT 11)]

2. The parties are at variance as to whether the directions in Ext.P8 judgment have been complied with or not. These are disputed questions of fact to be agitated in a statutory appeal. An appeal would lie against Ext.P11 order to the Government under Section 83(1)(j) of the Kerala Co-operative Societies Act. Intermittent interference in writ jurisdiction during

the course of inspection and enquiry or surcharge by the statutory authorities has to be desisted.

The writ Petition is dismissed without prejudice to the right of the petitioner as above.

Sd/-
V.CHITAMBARESH,
Judge.

nj.