

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date of Reserving Order 27.03.2017	Date of Pronouncing Order 20.06.2017
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CORAM:

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.16273 of 2014

and

M.P. No.1 of 2014

and

WMP.No.6700 of 2017

S.Mathuram

...Petitioner

Vs.

1. The Deputy Registrar of Cooperative Societies (Credit) (Full Additional Charge), Kuralagam, Chennai 600 108
2. The Co-operative Sub-Registrar/ Authorised Officer for conducting Special Meeting of the Board, Secretariat Staff Co-operative Society Ltd., Chennai - 600 009.
3. The Tamil Nadu Secretariat Staff Cooperative Society Ltd., rep.by its Managing Director, Secretariat, Fort St.George, Chennai - 600 009.

...Respondents

(R3 impleaded as per order of this Court dated 21.08.2015 made in M.P.No.1 of 2015 in W.P.No.16273 of 2014)

Writ Petition is filed under Article 226 of the Constitution of India to issue WRIT OF CERTIORARI calling for the records of the 2nd respondent pursuant to his notice dated 17.06.2014, and quash the same.

For petitioner : Mr.M.S.Palaniswamy

For R 1 and R 2: Mr.L.P.Shanmugasundaram
Special Government Pleader

For R3 : Mr.R.Krishnamoorthy

ORDER

This Writ petition is filed seeking to quash the notice dated 17.06.2014 issued by the second respondent.

2. The brief facts of the case of the petitioner are as follows.

The petitioner was elected as Vice President of the third respondent society on 06.05.2013 and he assumed Office on 08.05.2013. While that being the position, the first respondent served notice dated 25.05.2014 based on the requisition letter dated 15.05.2014 submitted by other elected members of the third respondent society. On receipt of such notice, the petitioner submitted his explanation on 02.06.2014. On receipt of the reply submitted by the petitioner, the first respondent has authorised the second respondent to convene a special meeting of the Board of Directors to facilitate "No Confidence Motion" against the writ petitioner. The second respondent issued a notice dated 17.06.2014 informing the petitioner about convening of special meeting of the Board of Directors on 23.06.2014 at 05.45 p.m. in the Office of the Society. The aforesaid notice was received by the petitioner on 20.06.2014. Under Rule 62 (3) of the Tamil Nadu Cooperative Societies Rules, 1988 a special meeting of the Board of the society, for consideration of resolution expressing 'No Confidence Motion' in the office bearer, should be conducted within 30 days from the date of receipt of such requisition from the elected members, for which not less than three clear days' notice shall be given. Therefore, in the present case, the date fixed by the respondents is beyond the time prescribed under Rule 62 (3) of Tamil Nadu Co-operative Societies Rules, 1988 and further no three clear days' notice has been issued. Challenging the impugned notice dated 17.06.2014, the petitioner has filed the present Writ Petition before this court.

3. The brief facts of the case of the respondents are as follows:-

The election of the Board of Directors of the society was conducted in the month of April 2013 and 13 Directors were elected by the members of the society and the Petitioner was elected as Vice President of the Society. There was a conflict between the Petitioner and the rest of the members of the Board. Hence, the 9 members of the Board sent a requisition letter on 15.05.2014, which was received in the Office of the first respondent on 27.05.2014, requesting the first respondent to remove the Petitioner from the post of Vice-President, by bringing 'No Confidence Motion'. On receipt of the said requisition letter, the first respondent has sent a copy of letter received from the aforesaid 9 members of the Board of the Society to the petitioner and requested him to offer his remarks

within 7 days of receipt of the said letter dated 29.05.2014 as per rule 62 (2) of Tamil Nadu Co-operative Societies Rules, 1988. The petitioner, on receipt of the said letter, has replied by his letter dated 02.06.2014 and the same was received by the first respondent on 06.06.2014. The first respondent, in his order dated 16.06.2014, as per the provisions of Rule 62 (4) of Tamil Nadu Co-operative Societies Rules 1988, authorised Thiru.K.Somasundaram, Co-operative Sub-Registrar (second respondent) to conduct and preside over the special meeting, on the basis of the requisition letter made by the Board of Directors. The second respondent issued such notice on 17.06.2014 and the same was served on the petitioner on 20.06.2014, for the meeting to be held on 23.06.2014. Hence, there are five clear days between the date of notice and the date of meeting, as laid down in Rule 62 (3) of the Tamil Nadu Co-operative Societies Rules, 1988. Hence, the Writ Petition is liable to be dismissed.

4. Heard the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for third respondent.

5. The learned counsel for the petitioner would submit that the impugned notice issued by the respondents is liable to be quashed, mainly on the ground that there is violation of Rule 62(3) of the Tamil Nadu Co-operative Societies Rules, 1988. According to the learned counsel for the petitioner, as per Rule 62 (3) of the Tamil Nadu Co-operative Societies Rules, 1988, a special meeting of the Board of the society, for consideration of resolution expressing 'No Confidence Motion' in the office bearer, should be conducted within 30 days from the date of receipt of such requisition from the elected members, for which not less than three clear days' notice shall be given. According to him, three clear days means the date of receipt of notice and the date of taking action must be separated by three clear days and the respondent cannot compute three clear days from the date of receipt of the notice. But in this case, notice was served on the petitioner on 20.06.2014 for the meeting to be held on 23.06.2014 and therefore, no three clear days' notice was given and therefore, the impugned notice is liable to be quashed. In support of his above contention, the learned counsel for the petitioner would rely on the following decisions, apart from relying on the definition of clear days as defined in Law Lexicon:-

(i) Judgment of the Delhi High Court reported in ILR 1972 Delhi 837 (Bharat Kumar Dilwali ..Vs.. Bharat Carbon & Ribbon Mft. Ltd);

(ii) Judgment of the Allahabad High Court in the case of ''Kamal Sharma Vs. State of UP and Others'' in WRIT - C No.9763 of 2013 dated 05.10.2013;

(iii) Judgment of this Court in the case of '' R.Mallan ..vs.. The Deputy Registrar of Co-operative Societies and others'' in W.P.No.33207 of 2014 dated 14.03.2016;

(iv) Judgment of this Court reported in (2015) 2 MLJ 395 (Thanga. Kathiravan Vs. Deputy Registrar of Co-operative Societies and another);

(v) Judgment of this Court reported in 2001 (1) CTC 279 (V.Kuppanna vs. Deputy Registrar of Co-operative Societies and two others); and

(vi) Judgment of the Hon'ble Supreme Court of Appeal of South Africa in Case No.440/2000 between Nedcor Bank Limited and The Master of the High Court (Pretoria); and prays this Court to allow the writ petition.

6. The learned Special Government Pleader appearing for the respondents 1 and 2 would submit that the second respondent issued the impugned notice on 17.06.2014 and the same was served on the petitioner on 20.06.2014, for the meeting to be held on 23.06.2014 and therefore, there are five clear days between the date of issue of notice and the date of meeting, as laid down in Rule 62 (3) of the Tamil Nadu Co-operative Societies Rules, 1988 and nowhere in the rule, there is mention about the date of receipt or date of service of notice. Hence, the learned Special Government Pleader prays for dismissal of the Writ Petition.

7. The learned counsel appearing for the third respondent, by reiterating the submissions made by the learned Special Government Pleader, would submit that the second respondent issued the impugned notice on 17.06.2014 and the same was dispatched to the petitioner on 18.06.2014 under Registered post with acknowledgement due, which was served on the petitioner on 20.06.2014, for the meeting to be held on 23.06.2014 and therefore, there are four clear days between the date of dispatch of notice and the date of meeting. The learned counsel appearing for the third respondent would further submit that Rule 62 (3) of the Tamil Nadu Co-operative Societies Rules, 1988 is parallel to Section 27 (3) of Mysore Town Municipalities Act (22 of 1951) and also Andhrapradesh Panchayat Raj Act (13 of 1994). He would further submit that if some of the members received less than three clear days' notice of the meeting, that itself did not make the proceedings of the meeting or the resolution passed therein invalid. In support of his

contention, the learned counsel would rely on the following decisions and pray this Court to dismiss the Writ Petition.

(i) Judgment of the Hon'ble Apex Court reported in AIR 1966 Supreme Court 330 (K.Narasimhiah .Vs. H.C.Singri Gowda and others); and

(ii) Judgment of the Andhra Pradesh High Court reported in AIR 2004 ANDHRA PRADESH 400 (Smt.K.Sujatha Vs.The Government of A.P.and another)

8. I have considered the submissions made by the learned counsel appearing for the petitioner, learned Special Government Pleader appearing for the respondents 1 and 2 and the learned counsel appearing for third respondent and perused the materials available on record.

9. The main ground raised by the learned counsel for the petitioner is that there is violation of Rule 62 (3) of the Tamil Nadu Co-operative Societies Rules, 1988 in issuing the notice and no three clear days' notice was given for the meeting to be held on 23.06.2014 and hence, the impugned notice is liable to be quashed. But, according to the learned Special Government Pleader appearing for the respondents 1 and 2 and also the learned counsel for the third respondent, the Registrar has, within thirty days from the date of receipt of requisition from the members, arranged to convene a special meeting of the board of the society and issued 5 clear days notice by following the procedures contemplated under Rule 62(3) of Tamil Nadu Co-operative Societies Rules, 1988 and therefore, the conditions stipulated under Rule 62(3) have been complied with by the respondents, and the contention of the petitioner is liable to be rejected.

10. By considering the rival submissions made and the decisions relied on by the learned counsel for the parties, the points to be considered in this Writ Petition are:-

(1) What is the meaning of clear days ?

(2) Whether three clear days' notice, as prescribed under Rule 62 (3) of the Tamil Nadu Co-operative Societies Rules, 1988 for convening a special meeting, for consideration of the resolution expressing 'no confidence motion', is mandatory or directory ? and

(3) Whether the respondents had complied with the conditions as contemplated under Rule 62(3) of the Tamil Nadu Co-operative Societies Rules, 1988 ?

11. Point No.1:

Since, the meaning of 'clear days' is disputed by both sides, this Court deems it fit to decide the issue of meaning of 'clear days' before deciding the main ground. Hence, it is

useful to refer the decisions relied on by the learned counsel for the petitioner as well as the respondents.

12. The definition of 'clear days' as defined in Law Lexicon is as follows.

"In any case, in which any particular number of days not expressed to be clear days is prescribed by the Rules of the Supreme Court, the same shall be reckoned, exclusively on the first day and inclusively on the last day".

"In the County Court Rules, 1903, 'clear days' means that in all cases in which any particular number of days is prescribed for the doing of any act or for any other purpose, the same is to be reckoned exclusive both of the first and of the last day."

13. In the decision relied on by the learned counsel for the petitioner reported in ILR 1972 Delhi 837 (Bharat Kumar Dilwali ..Vs.. Bharat Carbon & Ribbon Mft. Ltd), it is held that a 'day' is a space of time between two successive midnights and in computing 'day' as a period of time, law does not take into consideration fractions of two days in order to make up one complete day. It is also held that the day of service of the notice of the general meeting and the day of the meeting have to be excluded, while counting twenty-one days, the period of notice prescribed under Section 171 of the 1956 Act.

14. In yet another decision relied on by the learned counsel for the petitioner in the case of 'Kamal Sharma Vs. State of UP and Others' in WRIT - C No.9763 of 2013 dated 05.10.2013, the Hon'ble Allahabad High Court has held that both days, namely initial day and last day are excluded for reckoning the clear 15 days notice as per Section 87-A (3) of the U.P Municipalities Act, 1916.

15. In one more decision, relied on by the learned counsel for the petitioner in Case No.440/2000 between Nedcor Bank Limited and The Master of the High Court (Pretoria), the Hon'ble Supreme Court of Appeal of South Africa held that if the legislature intended that the 'clear days' method of computation be applied, it would have done so explicitly and Section 4 of the Interpretation Act is the appropriate method of computation to be adopted. Hence, it is useful to extract Section 4 of the Interpretation Act, for better understanding:-

"4. Reckoning of number of days - When any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of

the last day, unless the last day happens to fall on a Sunday or any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday."

16. In the light of the decisions relied on by the learned counsel for the petitioner, I am in complete agreement with the definition of 'day' as laid down in the decision of the Delhi High Court reported in ILR 1972 Delhi 837, referred supra and I, therefore, hold that 'clear days' means the days excluding both the date of dispatch and the date of meeting. Therefore, 3 clear days' notice means there shall be 3 days in between the date of dispatch of the notice and the date of meeting. Hence, Point No.1 is answered accordingly.

17. Point No.2:

The learned counsel for the third respondent by placing reliance on the Judgment of the Hon'ble Apex Court reported in AIR 1966 Supreme Court 330 cited supra and the Judgment of the Andhra Pradesh High Court reported in AIR 2004 ANDHRA PRADESH 400 cited supra, would submit that the requirement of three clear days' notice for holding a special general meeting is only directory and not mandatory.

18. In the decision relied on by the learned counsel for the third respondent reported in AIR 1966 Supreme Court 330 (K.Narasimhiah ..Vs.. H.C.Singri Gowda and others), in an identical case, the Hon'ble Supreme Court has held that the requirement of three clear days' notice for holding a special general meeting as embodied in Section 27(3) of Mysore Town Municipalities Act is only directory and not mandatory. The reliance is placed to paragraph Nos.11, 14, 18, 19 and 20 which read as follows:-

"11. "Giving" of anything as ordinarily understood in the English language is not complete unless it has reached the hands of the person to whom it has to be given. In the eye of law however "giving" is complete in many matters where it has been offered to a person but not accepted by him. Tendering of a notice is in law therefore giving of a notice even though the person to whom it is tendered refuses to accept it. We can find however no authority or principle for the proposition that as soon as the person with a legal duty to give the notice dispatches the notice to the address of the person to whom it has to be given, the giving complete. We are therefore of opinion that the High Court was wrong in thinking that the notices were

given to all the Councillors on the 10th of October. In our opinion, the notice given to five of the Councillors was of less than three clear days."

14. It is necessary also to remember that the main object of giving the notice is to make it possible for the Councillors to so arrange their other business as to be able to attend the meeting. For an ordinary general meeting, the notice provided is of seven clear days. That is expected to give enough time for the purpose. But a lesser period of three clear days is considered sufficient for 'special general meetings' generally. The obvious reason for providing a shorter period of such meetings is that these are considered more important meetings and Councillors are expected to make it convenient to attend these meetings even at the cost of some inconvenience to themselves. Where the special general meeting is to dispose of some matter of great urgency, it is considered that a period of even less than three clear days' notice would be sufficient.

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18. It is interesting to notice in this connection that the English law as regards meetings of borough council and country councils contain a specific provision that want of service of a summons to attend the meeting (which is required to be served on every member of the council) will not affect the validity of the meeting. It may be presumed that the legislature which enacted the Mysore Town Municipalities Act 1951, was aware of these provisions in English law. It has not gone to the length of saying that the failure to serve the notice will not make the meeting invalid. It has instead said that any irregularity in the service of notice would not make a resolution of the Council invalid provided that the proceedings were not prejudicially affected by such irregularity. The logic of making such a provision in respect of irregularity in the service of notice becomes strong if the fact that the notice given was short of the

required period is considered an irregularity.

19. The existence of this provision in S.36 is a further reason for thinking that the provision as regards any motion or proposition of which notice must be given in S.27 (3) is only directory and not mandatory.

20. We are, therefore, of opinion that the fact that some of the Councillors received less than three clear days' notice of the meeting did not itself make the proceedings of the meeting or the resolution passed there invalid. These would be invalid only if the proceedings were prejudicially affected by such irregularity. As already stated, nineteen of the twenty Councillors attended the meeting. On these 19, 15 voted in favour of the resolution of no-confidence against the appellant. There is thus absolutely no reason for thinking that the proceedings of the meeting were prejudicially affected by the "irregularity in the service of notice".

19. The Full Bench decision of the Andhra Pradesh High Court reported in AIR 2004 ANDHRA PRADESH P 400 (Smt.K.Sujatha Vs.The Government of A.P.and another) was also relied on by the learned counsel for the third respondent. In the said decision, it is held that a member has got a shorter period of notice than fifteen clear days from the date of receipt of the notice would not matter and unless it is shown that the shortfall in the period of notice of the meeting has caused some prejudice to the member, neither the meeting nor the proceedings taken thereunder would be said to be invalid. The relevant paragraphs 27 and 28 are extracted as follows.

" 27. The ordinary meaning of the word 'notice' is knowledge, information or announcement. Therefore, the purpose and object of issuing the notice is to give due intimation of the proposed meeting of no confidence motion to all the members of the Panchayat or Mandal Parishad or Zilla Parishad and to make it possible for the members to adjust their work in such a manner so as to enable them to attend the proposed meeting of no confidence motion. Once the member receives intimation, he is not required to make any further preparation for the purpose of meeting except by making

himself available in the meeting. Rule 8 says that the proposed motion will be put to vote without any debate and voting would be by show of hands. In case no preparation is required to be presenting himself in the meeting, whether the member gets shorter period of time than fifteen days or not is irrelevant and meaningless. Had some discussion to take place or debate to follow, the matter would have been slightly different. Even the submission that holding the rule to be mandatory might lead to a situation of certain members interested scuttling the purpose is of no relevance in as much as in case a section of members is interested to scuttle the motion, the purpose can be served differently. Mere causing delay in accepting the notice within the requisite period of fifteen days is not the only mode of scuttling the meeting. Such section of the members can conveniently avoid attending the meeting so as to ensure that quorum is not complete when meeting is called to order, because as per Rule 7 of the rules if within two hours there is no quorum, the notice shall stand lapsed.

28. The purpose and object of giving notice of consideration of no confidence motion is only to give due intimation to the members or information of the proposed meeting. Therefore, the fact that a member has got a shorter period of notice than fifteen clear days from the date of receipt of the notice would not matter. When notice is sent by post and the law permits the date of sending of notice to be treated as the date of delivery in that case obviously the period available to the member will be shorter than fifteen clear days from delivery to meeting, therefore, there is no reason why the Rule 3 be held to be mandatory as regards the service of notice. Unless it is shown that the shortfall in the period of notice of the meeting has caused some prejudice to the member, neither the meeting nor the proceedings taken thereunder would be said to be invalid. It is only in the eventuality of prejudice being shown that the meeting or the proceedings taken thereunder can said to be invalid. The

Legislature has rightly not provided in the rule that non-compliance of any shortfall in the notice would render the meeting or the proceedings taken thereunder to be invalid. Had that been the intention, the Legislature, obviously, would have provided since the law had been clearly settled by the time the Act was enacted and the Rules were framed by the judgment in Narasimaiah's case (AIR 1966 SC 330). In that view of the matter, we are of the opinion that the ratio of the judgment of the Division Bench of this Court laid down in Anandareddy's case that non-service of notice of fifteen clear days would make the meeting and the proceedings taken thereunder null and void cannot be said to be the correct law."

20. The aforesaid decisions relied on by the learned counsel for the third respondent are relating to Section 27 (3) of Mysore Town Municipalities Act (22 of 1951) and also Andhrapradesh Panchayat Raj Act (13 of 1994) and not relating to Rule 62 (3) of the Tamil Nadu Co-operative Societies Rules, 1988. Hence, the aforesaid decisions are not applicable to the present case.

21. The answer to this question depends on the ascertainment of the legislature's intention. In Rule 62 (3) of the Tamil Nadu Co-operative Societies Rules, 1988 it is stated that "' for which not less than three clear days' notice shall be given.'" Since in the said Rule 62 (3) itself, a phraseology 'not less than' is used, this Court is of the view that the intention of the legislation is that the said requirement must be compulsorily satisfied. Moreover, in the decision reported in (2015) 2 MLJ 395 (Thanga. Kathiravan Vs. Deputy Registrar of Co-operative Societies and another), this Court also held that the provisions of Rule 62 (3) of the Tamil Nadu Co-operative Societies Rules, 1988, are mandatory. Hence, this Court is of the view that the requirement of three clear days notice as laid down in Rule 62(3) of the Tamil Nadu Co-operative Societies Rules, 1988 is mandatory and not directory and therefore, the aforesaid contention of the learned counsel for the third respondent is rejected. Accordingly, Point No.2 is answered.

22. Point No.3:

Since the main ground raised in this Writ Petition is violation of Rule 62 (3) of the Tamil Nadu Co-operative Societies Rules, 1988, it is useful to extract Rule 62 (3) of the Tamil Nadu Co-operative Societies Rules, 1988, which reads as follows.

"62. Removal of an elected Office bearer

(1) An elected officer-bearer --- ---

(2) No special meeting of the board

(3) As soon as such a requisition is received, the Registrar shall communicate a copy of the requisition to the office-bearer concerned, calling upon him to make his representations, if any, within such time as may be specified by him. The Registrar shall, within thirty days from the date of receipt of such requisition arrange to convene a special meeting of the board of the society, for consideration of the resolution expressing no confidence in the officer-bearer for which not less than three clear days' notice shall be given. A copy of gist of the requisition and of the representation, if any, received from the office-bearer concerned shall also be sent to the members along with the notice for the special meeting of the board ".

The aforesaid rule mandates that on receipt of any requisition, the Registrar shall arrange to convene a special meeting of the Board of the Society within 30 days from the date of receipt of such requisition. The said rule also mandates that not less than three clear days' notice shall be given, to convene a special meeting of the Board.

23. In the case of ''R.Mallan ..vs.. The Deputy Registrar of Co-operative Societies and others'' in W.P.No.33207 of 2014 dated 14.03.2016, relied on by the learned counsel for the petitioner, this Court quashed the notice impugned therein, on the ground that the notice was issued beyond the period of 30 days from the date on which the requisition was received by the Deputy Registrar of Co-operative Societies by relying on the decision of this Court reported in (2015) 2 MLJ 395 (Thanga. Kathiravan Vs. Deputy Registrar of Co-operative Societies and another), wherein this Court set aside the impugned notice stating that the same was issued beyond the period prescribed under Rule 62(3) of Rules. The relevant portions are extracted as follows:-

11. As per the Provisions of Rule 62 (3) of Tamil Nadu Co-operative Societies Rules, "the Registrar shall, within thirty days from the date of receipt of such requisition, arrange to convene a special meeting of the Board of the Society for consideration of the

resolution expressing no confidence motion in the office bearer for which not less than three clear days' notice shall be given.

12. From the dates mentioned above, it can be seen that the first respondent received the requisition on 01.09.2014 and the second respondent issued the impugned notice on 07.10.2014. It is clear that the provisions of Rule 62(3) of the Tamil Nadu Co-operative Societies Rules, which is mandatory, was not followed by the respondents. The respondents should have convened the meeting within thirty days from 01.09.2014. In the case on hand, the impugned notice was issued on 07.10.2014 to convene the special meeting for moving no confidence motion only on 14.10.2014, which is beyond the period prescribed under Sec.62 (3) of the Rules. On this ground alone, the impugned notice dated 07.10.2014 is liable to be set aside.

.....
19. In these circumstances, the impugned notice dated 07.10.2014 is liable to be set aside and accordingly, the same is set aside.

Thus in the instant case, learned counsel appearing for the respondents admit that the notice was issued beyond the period of 30 days from the date on which the requisition was received by the Deputy Registrar of Co-operative Societies. Therefore, the impugned notice is beyond the statutory period of limitation fixed under the Rules and in the absence of any provision for extension of the said statutory period, the impugned notice has to be necessarily held to be bad in law.

Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed. "

24. In yet another decision, relied on by the learned counsel for the petitioner, reported in 2001 (1) CTC 279 (V.Kuppanna .vs. Deputy Registrar of Co-operative Societies and two others), this Court set aside the impugned notice of meeting

and consequential resolution on the ground that the notice was issued beyond the period of 30 days prescribed under Rule 62(3) of Rules .

25. According to the petitioner, the requisition letter dated 15.05.2014 for moving "No Confidence Motion" against the Petitioner, was received by the first respondent on 27.05.2014 and vide order dated 16.06.2014, the first respondent directed the second respondent to convene a special meeting of the Board for "No Confidence Motion" against the petitioner. Pursuant to the same, the second respondent has issued the notice dated 17.06.2014 to convene the special meeting of the Board to be held on 23.06.2014 at 05.45 p.m. and the aforesaid notice was received by the petitioner on 20.06.2014. The learned counsel for the petitioner, by placing reliance on the aforesaid Rule and the decisions cited by him, would submit that so far as the present case is concerned, the respondents have not complied with the requirement of time as prescribed in the said Rule and therefore, the impugned notice is liable to be quashed.

26. But the learned counsel for the respondents would submit that the respondents issued 5 clear days notice to the petitioner for the meeting to be convened within 30 days from the date of receipt of requisition and therefore, the provisions under Rule 62 (3) of the Tamil Nadu Cooperative Societies Rules have been complied with by the respondents.

27. As per Rule 62(3) of the Tamil Nadu Co-operative Societies Rules, 1988, as soon as a requisition is received, the Registrar shall communicate a copy of the requisition to the office-bearer concerned, calling upon him to make his representations, if any, within such time as may be specified by him and then, the Registrar shall, within thirty days from the date of receipt of such requisition arrange to convene a special meeting of the Board of the society, for consideration of the resolution expressing no confidence in the officer-bearer for which not less than three clear days' notice shall be given.

28. Insofar as the first condition prescribed under Rule 62 (3) of the Tamil Nadu Co-operative Societies Rules, 1988, viz., arrangement of convening of a special meeting within 30 days time is concerned, the nine members of the Board of Directors sent a letter to the first respondent on 15.05.2014, which was received by the first respondent on 27.05.2014. On receipt of such notice, first respondent by his letter in R.C.No.1470/2014/pa.sa.1 dated 29.05.2014 has requested the petitioner to offer his explanation within 7 days from the date of receipt of the said letter. Accepting the aforesaid letter, the petitioner submitted his explanation on 02.06.2014, which was received by the first respondent on 06.06.2014. The first respondent vide his order in R.C.No.1470/2014/pa.sa.1 dated

16.06.2014 has authorised the second respondent to conduct and preside over the special meeting. The authorised officer issued notice dated 17.06.2014 to all the members of the Board informing the special meeting to be convened on 23.06.2014 at 05.45 p.m. Under Rule 62 (3), special meeting shall be conducted within 30 days from the date of receipt of such request. On perusal of the records, it is seen that the requisition letter dated 15.05.2014 from the members of the Board was received by the first respondent on 27.05.2014 and pursuant to the order of the first respondent, the authorised officer / second respondent issued notice dated 17.06.2014 informing the special meeting to be held on 23.06.2014. Therefore it is clear that the date of receipt of requisition from the members by the first respondent is 27.05.2014 and the date of meeting scheduled to be convened is 23.06.2014, which is within 30 days from the date of receipt of such requisition. The learned counsel for the petitioner has not produced any material before this court contradicting the above submissions made by the respondents. Hence, as rightly contented by the learned counsel for the respondents, this Court comes to the conclusion that the respondents have arranged to convene the special meeting within the time prescribed under Rule 62(3) of the Tamil Nadu Co-operative Societies Rules, 1988.

29. The next condition prescribed under Rule 62(3) of the Tamil Nadu Co-operative Societies Rules, 1988 is 'not less than 3 clear days notice shall be given to the members'. According to the learned counsel for the petitioner, the notice dated 17.06.2014 issued by the second respondent for the special meeting to be held on 23.06.2014 was served on the petitioner only on 20.06.2014 afternoon and therefore, there is no three clear days notice given. But according to the respondents, the date of issuing the impugned notice is 17.06.2014 and the date of meeting is 23.06.2014 and hence, more than three clear days is available. On perusal of the materials available on record, it is seen that there are contradictory statements made by the respondents in their counter affidavits. In the counter affidavit filed by the first respondent, in paragraph- 13 it is stated as follows:-

"13. When Thiru.S.Mathuram, Vice President was approached by the messenger for hand delivery of the notice on 18.06.2014, he took a photocopy of the notice and refused to acknowledge the receipt of the notice and asked her to send the notice by post. This fact was recorded by the messenger, Tmt.Latha Mangeshkar, Office Assistant, of Tamil Nadu Secretariat Staff Cooperative Society, vide her letter dated 18.06.2014. On 18.06.2014, the notice with enclosures were sent by Registered Post with Acknowledgement Due, to

the address, Office of the Minister for School Education, Secretariat, where he is presently employed".

But in paragraph - 15 of the said counter affidavit filed by the first respondent, it is stated as follows:-

"..... On 19.06.2014, a copy of the notice was also sent to the residence address of Thiru.S.Mathuram, Vice President, but his wife refused to receive it. So in order to serve a copy of the notice, a copy of the notice along with enclosures was also sent to the residence address of Thiru.S.Mathuram, Vice President, thru RPAD on 20.06.2014."

But in the counter affidavit filed by the third respondent, in paragraph-6, it is stated as follows:-

" The second respondent issued the notice dated 17.06.2014 for the Special Board meeting and it was dispatched to the petitioner on 18.06.2014 under Registered post with acknowledgement due, which was served on the petitioner on 20.06.2014."

However, to prove the aforesaid averments made in their counter affidavits, the respondents have not produced any supporting documents, viz., Receipt, Acknowledgement card and the recording of refusal made by the petitioner as recorded by the messenger, Tmt.Latha Mangeshkar, Office Assistant, of Tamil Nadu Secretariat Staff Cooperative Society. However, on perusal of the copy of the registered cover enclosed at page Nos. 13 and 14 of the typed set of papers filed by the petitioner, it seen that the said notice was sent to the petitioner through 'Registered Post with Acknowledgement Due' on 18.06.2014 at 15.28 hours. In such circumstance, in order to calculate the clear days between the date of notice and the date of meeting, this Court takes the date of dispatch/sending of notice to the petitioner, ie., 18.06.2014 as the date of notice. Therefore, more than three clear days is available between the date of dispatch (18.06.2014) and the date of meeting (23.06.2014), if both the days viz., date of dispatch of notice and the date of meeting are excluded. As already decided, to comply with Rule 63(2), the requirement of 3 clear days between the date of dispatch of notice and the date of meeting should be satisfied. In this case, the said condition is also satisfied. Therefore the contention of the learned counsel for the respondents that there was more than three clear days between the date of notice and the date of meeting is accepted. Hence, in the light of the decisions cited supra, this Court comes to the conclusion that

the respondents have complied with the procedures contemplated under Rule 62 (3) of the Tamil Nadu Cooperative Societies Rules and hence, there is no violation of Rule 62(3) of the Tamil Nadu Co-operative Societies Rules. This point is answered accordingly.

30. In the aforesaid circumstances, the impugned notice dated 17.06.2014 is in accordance with Rule 62(3) of the Tamil Nadu Co-operative Societies Rules, 1988.

31. In the result, the Writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

To

1. The Deputy Registrar of Cooperative Societies (Credit) (Full Additional Charge), Kuralagam, Chennai 600 108
2. The Co-operative Sub-Registrar/ Authorised Officer for conducting Special Meeting of the Board, Secretariat Staff Co-operative Society Ltd., Chennai - 600 009.
3. The Tamil Nadu Secretariat Staff Cooperative Society Ltd., rep.by its Managing Director, Secretariat, Fort St.George, Chennai - 600 009

+1cc to Mr.R.Krishnamoorthy,Advocate sr.43619

+1cc to Mr.M.S.Palaniswamy,Advocate sr.43548

W.P. No.16273 of 2014
and M.P. No.1 of 2014
and
WMP.No.6700 of 2017

vsn(co)
ss(23/6/2017)