IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MURALI PURUSHOTHAMAN

THURSDAY, THE 1ST DAY OF AUGUST 2024 / 10TH SRAVANA, 1946

WP(C) NO. 27454 OF 2024

PETITIONER:

MAHENDRA K
AGED 43 YEARS
S/O. KRISHNANKUTTY KURUP RESIDING AT
MANTHANAZHIKATHU VEEDU, POOTHAKULAM P.O, KOLLAM,
PIN – 691302.

BY ADVS.
S.SREEKUMAR (KOLLAM)
K.VIJAYAN
NAMITHA RAJESH
NITHYA V.D.

RESPONDENTS:

1 **THE POOTHAKULAM SERVICE CO-OPERATIVE BANK LTD NO. 2944**
POOTHAKULAM P.O, KOLLAM REPRESENTED BY ITS SECRETARY, PIN – 691302.

2 **THE PRESIDENT**
POOTHAKULAM SERVICE CO-OPERATIVE BANK LTD NO. 2944, POOTHAKULAM P.O, KOLLAM, PIN – 691302.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 01.08.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner, while working as Manager of Unninmudu Branch of the first respondent Co-operative Bank, was placed under suspension by Ext. P1 order dated 29.04.2024 of the 2nd respondent, the President of the Bank. The petitioner challenges Ext. P1 order contending that the 2nd respondent is not having the power to suspend him and that the order of suspension is illegal and arbitrary and passed in violation of the principles of natural justice.

2. Rule 198 (6) of the Kerala Co-operative Societies Rules, 1969 deals with suspension of employees of Co-operative Societies. Section 69 of the Kerala Co-operative Societies Act, 1969 ('Act' for short) deals with disputes to be decided by Co-operative Arbitration Court and Registrar. Section 69 (1) (c) provides that, notwithstanding anything contained in any law for the time being in force, if a dispute arises between the Society or its Committee and any past Committee, any officer, agent or employee or any past officer, past agent or past employee or the nominee, heirs or legal

representatives of any deceased officer, deceased agent or deceased employee of the Society; such disputes shall be referred to Co-operative Arbitration Court constituted under Section 70A of the Act, in the case of non-monetary disputes and to the Registrar, in the case of monetary disputes, and the Arbitration Court, or the Registrar, as the case may be, shall decide such disputes and no other Court or other authority shall have jurisdiction to entertain any suit or other proceedings in respect of such disputes. Section 69 (2) (d) of the Act provides that, for the purpose of sub-section (1) of Section 69, any dispute arising in connection with employment of officers and servants of the different classes of Societies specified in sub-section (1) of Section 80, including their promotion and *inter se seniority*, shall also be deemed to be disputes. The Co-operative Arbitration Court can also adjudicate issues of monetary benefits consequential to and arising out of service disputes. As per sub-section (2) of Section 70, the Co-operative Arbitration Court is empowered to make such interlocutory orders as it may deem necessary in the interest of justice, pending award of a

dispute referred to it under Section 69. An award passed by the Arbitration Court under Section 70(1) of the Act is appealable to the Co -operative Tribunal, under clause (a) of sub-section (1) of Section 82 of the Act.

3. Challenge against an order of suspension is a dispute which has to be raised for adjudication before the Co - operative Arbitration Court at the first instance, in view of the provisions contained in Section 69 (1) (c) read with Section 69 (2) (d) of the Act. When the Act provides for hierarchy of remedies against the order of suspension of an employee of Co-operative Society, a writ petition under Article 226 of the Constitution is not maintainable. Accordingly, this writ petition is dismissed, without prejudice to the right of the petitioner to avail the statutory remedy under Section 69 of the Kerala Co-operative Societies Act. All the contentions of the petitioner are left open.

Sd/-
MURALI PURUSHOTHAMAN
JUDGE

Pvv

APPENDIX OF WP(C) 27454/2024

PETITIONER'S EXHIBITS

EXHIBIT P1	**THE TRUE COPY OF THE SUSPENSION ORDER DATED 29.04.2024 ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.**
EXHIBIT P2	**THE TRUE COPY OF THE SCREEN SHOT OF THE ALLEGED WHATSAPP MESSAGE COMMUNICATED BETWEEN THE PETITIONER AND SMT. ASWATHY V. KUMAR.**