

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.N.RAVINDRAN

TUESDAY, THE 5TH JANUARY 2010 / 15TH POUSHA 1931

WP(C).No. 106 of 2010(K)

PETITIONER(S):

1. M.V.SIVASANKARAN NAIR, SIVA MANDIRAM,
KEZHAMMAKAM, CHENGAL P.O., THIRUVANANTHAPURAM DIST

2. S.JANARDHANAN, SWAYAMPRAKASHA VILASAM,
PORANNUR, PLAMOOTTUKADA P.O.,
THIRUVANANTHAPURAM DISTRICT.

BY ADVS.MR.P.K.SURESH KUMAR
SMT.P.JAYALAKSHMI

RESPONDENT(S):

1. THE STATE OF KERALA, REPRESENTED BY ITS
SECRETARY, DEPARTMENT OF CO-OPERATION,
THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR OF DAIRY
DEVELOPMENT, THIRUVANANTHAPURAM.

3. POOZHIKUNNU MILK PRODUCERS CO-OPERATIVE
SOCIETY LIMITED NO.T.31 D APCOS, REPRESENTED BY
ITS SECRETARY, POOZHIKUNNU, THIRUVANANTHAPURAM
DISTRICT.

BY GOVT. PLEADER MR.K.C.SANTHOSHKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05/01/2010, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

tss

P.N.RAVINDRAN, J.

W.P.(C)No.106 of 2010

Dated 5th January, 2010

JUDGMENT

The petitioners are members of the third respondent society. They were also members of the Board of Directors of the said society. By Ext.P1 order passed on 6.11.2009 under Rule 44(3) of the Kerala Co-operative Societies Rules, the second respondent, exercising powers of the Registrar of Co-operative Societies disqualified them from continuing as members of the Managing Committee of the third respondent society. Aggrieved thereby, the petitioners have filed Ext.P2 appeal before the Secretary to Government, Co-operative Department. In this writ petition, the petitioners seek an expeditious disposal of Ext.P2 appeal. The petitioners submit that after they were disqualified the committee of the society was superseded for want of quorum and an Administrator was appointed.

2. The pleadings disclose that the petitioners were disqualified from being the members of the Board of Directors of the third respondent society on the ground that they have ceased to be ordinary residents within the area in operation of the third respondent society. The petitioners dispute the said allegation. According to them, an amendment of the bye-law altering the area of operation of

the third respondent society cannot affect their membership which was validly granted at a time when the area of operation included the area where they were residing. In my opinion, this is a matter which the Government should take note of and consider when it pass orders on Ext.P2 appeal. Ext.P1 order was passed on 6.11.2009. Nearly two months have passed thereafter. The petitioners have within the period of limitation prescribed for filing an appeal filed Ext.P2 appeal before the Government under section 83(1)(j) of the Kerala Co-operative Societies Act. Since the petitioners have invoked the remedy available to them in law and their disqualification has resulted in the committee being superseded for want of quorum, I am of the opinion that the Government should pass orders on Ext.P2 appeal expeditiously. In such circumstances, this writ petition is disposed of with a direction to the first respondent to consider Ext.P2 appeal and pass orders thereon expeditiously and in any event within three months from the date of production of a certified copy of this judgment after notice to and affording the petitioner and the third respondent a reasonable opportunity of being heard. Till such time orders are passed on Ext.P2 appeal, the Administrator appointed by the

respondents shall not make any regular appointment in the third respondent society.

P.N.RAVINDRAN
Judge

TKS