

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

MONDAY, THE 9TH DAY OF OCTOBER 2017/17TH ASWINA, 1939

WP(C).No. 31302 of 2017 (K)

PETITIONER(S):

THE BOARD OF DIRECTORS OF THE ANGADI SERVICE CO-OPERATIVE
BANK LTD.NO.2770
REPRESENTED BY ITS PRESIDENT,
ANGADI P.O, RANNY, PATHANAMTHITTA DISTRICT.
BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR

RESPONDENT(S):

1. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
(GENERAL), RANNY, APTHANAMTHITTA DISTRICT-689672
2. THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL)
PATHANAMTHITTA-689645
3. THE STATE CO-OPERATIVE ELECTION COMMISSION,
THIRUVANANTHAPURAM-695001

*ADDL.R4 IMPEADED

NISAMUKUTTY, CHANTHAYIL CHARUVILA,
ANGADI P.O., RANNI, PATHANAMTHITTA-689674

(* IS IMPEADED AS ADDL.R4 AS PER ORDER IN I.A.NO.15801/2017 DATED
9.10.2017)

R4 BY ADVS. SRI.ASP.KURUP
SRI.SADCHITH.P.KURUP
R1 T R3 BY SR.GOVERNMENT PLEADER SMT.C.S.SHEEJA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-10-2017, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 31302 of 2017 (K)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1 A TRUE COPY OF THE LETTER DATED 24.08.2017 ALONG WITH
NECESSARY DOCUMENTS FORWARDED TO THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

dlk

SHAJI P. CHALY, J.

W.P.(C) No.31302 of 2017

Dated this the 9th day of October, 2017

JUDGMENT

Petitioner is the Board of Directors of the Angadi Service Co-operative Bank Ltd. No. 2770. The society has more than 10,000 members and has been classified as Class-I Special Grade Society . The term of the present Board of Directors of the society is due to expire on 7.11.2017 and therefore, the meeting of the Board of Directors held on 21.8.2017 had taken a decision to request the third respondent to conduct the next election to the board of directors of the society on 2.11.2017. According to the petitioner, on the basis of the decision the resolutions of the society and other necessary documents were forwarded to the third respondent under covering letter dated 24.8.2017. However, the third respondent has raised a query with respect to the status of ARC No.79/2012, pending before the Co-operative Arbitration court pertaining to the previous election.

2. According to the petitioner, a detailed reply was submitted by the Secretary of the Society pointing out that,

the order of the Arbitration court permitting re-counting of votes of the previous election has been challenged in WP(C)No. 25828/2017 and the writ petition was disposed of on 23.8.2017 permitting re-counting by the arbitration court, overruling the directions of the arbitration court permitting an Advocate Commissioner to count the votes. The ARC is still pending. However, according to the petitioner, the Election Commission has not notified the election to the board of directors of the society. It is also submitted that, any further delay in notifying the election would result in a situation where there would not be sufficient time to conduct the election going by the schedule prescribed under Rule 39A of the KCS Rules, 1969. It is also stated that, a proper request is made in order to conduct the election and the respondents are duty bound to notify the election in accordance with the resolution passed by the society. It is thus seeking appropriate direction to conduct the election at the earliest, this writ petition is filed.

3. Heard learned counsel for the petitioner, learned Government Pleader and counsel appearing for the additional 4th respondent and perused the pleadings and documents on record.

4. The short question that arises for consideration in the writ petition is whether there is any prohibition to conduct election when the society has passed a resolution to conduct the election on 2.11.2017, since the term of the society is due to expire on 7.11.2017. Apparently, in accordance with the provisions of the Co-operative Societies Rules, 1969, a resolution was passed by the society and forwarded to the Assistant Registrar, who is to forward the same to the Election Commission, as is provided under law. However, the same was delayed by raising query with respect to the pendency of a proceeding before the arbitration court pertaining to the previous election conducted to the society. In my considered opinion mere pendency of a proceeding before the arbitration court is not a justifiable ground for the statutory authority to forward the resolution to the Election Commission so as to have the elected body in the helm of affairs of the society before the expiry of the term of the society. Since having gone through the pleadings and documents produced by the petitioner, I am satisfied that there is no justifiable reason for the State Election Commission not to conduct the election.

2. Therefore, there will be a direction to the State

Election Commission to conduct the election at the earliest possible time. Even though, I find that a resolution is passed by the society to conduct the election on 2.11.2017, as per, the statutory time table prescribed under Rule 35A, the election will not be able to be conducted. Therefore, the board of directors is permitted to take resolution forthwith and forward it to the third respondent through the first respondent at the earliest possible time, and at any rate, the election shall be conducted within six weeks from the date of receipt of a resolution from the society, in accordance with the provision of Rule 35A of the Rules, 1969. Any how, since the term of the managing committee is expiring on 7.11.2017, there will be a direction to the second respondent to appoint an administrative committee with President and two members of the Society to manage the affairs of the society. There will be a further direction not take any policy decision by the administrative committee.

Writ petition is disposed of accordingly.

Sd/-

SHAJI P. CHALY, JUDGE

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