

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

WEDNESDAY, THE 13TH DAY OF DECEMBER 2023 / 22ND AGRAHAYANA,
1945

WP(C) NO. 41232 OF 2023

PETITIONER/S:

- 1 JIBIN M. J.
AGED 27 YEARS
S/O. JINACHANDRAN M.G., MATHOOR HOUSE,
PATTARANGADI, NENMENI P.O., SULTAN BATTERY,
WAYANADU,, PIN - 673592
- 2 JOE PAUL M.G.
AGED 27 YEARS
S/O. GEEVARGHESE M.O., MADATHIL HOUSE,
MEENANGADI P.O., SULTAN BATTERY
WAYANADU,, PIN - 673591
BY ADVS.
LIJI.J.VADAKEDOM
REXY ELIZABETH THOMAS
TOM E. JACOB
ATHUL V. VADAKKEDOM

RESPONDENT/S:

- 1 THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL) ,
OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL) KALPETTA NORTH P.O., WAYANADU,
PIN - 673122
- 2 THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
(GENERAL) OFFICE OF THE ASSISTANT REGISTRAR OF
CO-OPERATIVE SOCIETIES (GENERAL) SULTAN BATTERY,
WAYANADU, PIN - 673592
- 3 SULTAN BATTERY CO-OPERATIVE URBAN BANK LTD.,
REPRESENTED BY ITS CHIEF EXECUTIVE OFFICER
CRESCENT BUILDING, SULTHAN BATTERY P.O.,
WAYANADU, PIN - 673592
- 4 CHIEF EXECUTIVE OFFICER
SULTAN BATTERY CO-OPERATIVE URBAN BANK LTD.,
SULTAN BATTERY, CRESCENT BUILDING, SULTHAN BATTERY P.O.,
WAYANADU, PIN - 673592
SMT. SURYA BINOY, SR. GP.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 13.12.2023, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

JUDGMENT

The petitioners state that by Exts.P1 and P2 appointment order, they were appointed as Watchman in the Sulthan Bathery Cooperative Urban Bank Ltd. While so, based on a complaint preferred before the Joint Registrar that the appointments were in violation of the ratio fixed as per Rules, a communication was issued by the Joint Registrar to the bank. In response, a detailed response was submitted by the bank justifying their action in appointing the petitioners herein. The bank had contended that it was on account of the death of the staff in the bank that promotions were affected, and consequently, the appointments were made. The petitioners assert that without considering the explanation offered by the bank to Ext.P5 communication issued by the Joint Registrar, Ext.P7 order was passed ordering reversion. The petitioners assert that while issuing Ext.P7, the Joint Registrar has also directed the bank to cancel the promotion of the junior clerks and thereby to revert them to the post of watchman. The consequence would be termination of the petitioners herein. On receipt of Ext.P7, the bank has issued Exts.P8 and P9, directing the petitioners to show cause as to why they shall not be terminated from service. On receipt of Exts.P8 and P9, the petitioners are stated to have submitted

Ext.P10 representation before the Joint Registrar highlighting their grievances. It is on these assertions that this writ petition is filed seeking the following reliefs:

- a. issue a writ of mandamus or any other appropriate writ, direction or order directing the 1st respondent to consider Exhibit P10 representation and pass appropriate orders on the same after hearing the petitioners within a stipulated time limit.
- b. issue a writ of mandamus or any other appropriate writ, direction or order directing the respondents to keep all proceedings in pursuance of Exhibits P7, P8 and P9 pending till a decision is taken on Exhibit P10.
- c. Call for the records leading to the passing of Exhibit P7, P8 and P9 and to quash the same by issuing a writ of certiorari or any other appropriate writ, direction or order.

2. The learned counsel appearing for the petitioners submitted that the immediate consequence of Ext.P7 order would be the termination of the petitioners herein. It is submitted that before passing such an order, no opportunity of being heard was granted to the petitioners despite the fact that they are persons who are adversely affected by the order of the Joint Registrar. This, according to the learned counsel, is a clear violation of the Principles of Natural Justice.

3. The learned Government Pleader sought to sustain the order

passed by the Joint Registrar. It is submitted that the Joint Registrar, after having considered the facts and circumstances, had found that the promotion granted to the junior clerks were not in order, and it was in the said circumstances that reversion was ordered to the post of watchman. It is also submitted that even if an opportunity of hearing was granted to the petitioners, it would be an empty formality and a meaningless exercise.

4. I have considered the submissions advanced.

5. When this writ petition had come up for consideration on 08.12.2023, this Court had issued the following order:

"xx

List on 13.12.2023 until which time, all further action pursuant to Exts.P7, P8 and P9 will stand quashed.

I make it clear that the petitioners have not been relieved as at 11.30 a.m., today (08/12/2023), action for the same shall also be deferred until the next posting date."

6. I find that the Joint Registrar had issued Ext.P5 communication to the 4th respondent, to which Ext.P6 response was submitted by the bank stating reasons justifying their action. It was by rejecting the contentions in Ext.P6, that Ext.P7 order was issued. As submitted by the learned counsel appearing for the petitioners, the petitioners are the individuals whose rights and interests are affected by Ext.P7 order. The consequence

is that the petitioners would immediately be thrown out from service. In that view of the matter, as rightly submitted by the learned counsel, before passing Ext.P7 order, an opportunity of being heard ought to have been granted to the petitioners herein.

7. Having considered the facts and circumstances, I am of the considered opinion that directions can be issued to the Joint Registrar to consider Exhibit P10 representation submitted by the petitioner. As the orders were issued without hearing the version of the petitioners, Exhibit P7 to P9 to the extent it affects the petitioners, are liable to be quashed.

In that view of the matter, this writ petition is ordered, and the following directions are issued:

- a. Ext.P7 to the extent it cancels the promotion granted to the junior clerks will stand quashed. Consequently, Exts.P8 and P9 will also stand quashed.
- b. There will be a direction to the Joint Registrar to independently consider Ext.P10 representation submitted by the petitioners and take a decision as per procedure and in accordance with law, with notice to the petitioners as well as the bank and other affected parties.

- c. A decision shall be taken within a period of one month from the date of receipt of a copy of this judgment.
- d. The petitioners shall produce a copy of the writ petition along with a copy of the judgment before the Joint Registrar to ensure compliance.

Sd/-
RAJA VIJAYARAGHAVAN V,
JUDGE

NS

APPENDIX OF WP(C) 41232/2023

PETITIONER EXHIBITS

Exhibit P1	THE COPY OF THE APPOINTMENT ORDER NO. ESTT/01.01/2022-23 DATED 01/06/2022 ISSUED TO THE 1ST PETITIONER BY THE 4TH RESPONDENT
Exhibit P2	THE COPY OF THE APPOINTMENT ORDER NO. ESTT/01.01/2022-23 DATED 01/06/2022 ISSUED TO THE 2ND PETITIONER BY THE 4TH RESPONDENT
Exhibit P3	THE COPY OF THE RELEVANT EXTRACT OF THE SERVICE BOOK OF 1ST PETITIONER
Exhibit P4	THE COPY OF THE RELEVANT EXTRACT OF THE SERVICE BOOK OF 2ND PETITIONER
Exhibit P5	THE COPY OF THE COMMUNICATION NO. JRGWYD/740/2022-CRB DATED 18.10.2022 ISSUED BY THE 1ST RESPONDENT-JOINT REGISTRAR TO THE 4TH RESPONDENT-CEO
Exhibit P6	THE COPY OF THE REPLY DATED 22.11.2022 SUBMITTED BY THE 4TH RESPONDENT-CHIEF EXECUTIVE OFFICER BEFORE THE 1ST RESPONDENT-JOINT REGISTRAR
Exhibit P7	THE COPY OF THE ORDER NO. JRGWYD/740/2022-CRB DATED 29.3.2023 ISSUED BY THE 1ST RESPONDENT-JOINT REGISTRAR
Exhibit P8	THE COPY OF THE SHOW CAUSE NOTICE DATED 29.11.2023 ISSUED TO THE 1ST PETITIONER FROM THE 3RD RESPONDENT -BANK
Exhibit P9	THE COPY OF THE SHOW CAUSE NOTICE DATED 29.11.2023 ISSUED TO THE 2ND PETITIONER FROM THE 3RD RESPONDENT -BANK
Exhibit P10	THE COPY OF THE REPRESENTATION DATED 30.11.2023 SUBMITTED BY THE PETITIONERS BEFORE THE 1ST RESPONDENT-JOINT REGISTRAR