

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

..1..

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

FRIDAY, THE 27TH DAY OF MAY 2022 / 6TH JYAISHTA, 1944

WA NO. 22 OF 2022

AGAINST THE JUDGMENT IN WP(C).NO.964/2009 OF THE HIGH
COURT OF KERALA

APPELLANT/5TH RESPONDENT IN WP(C) :

STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF CO-OPERATION, SECRETARIAT,
THIRUVANANTHAPURAM.

SRI.ASOK M.CHERIAN, ADDL. A.G.
SRI.SAIGI JACOB PALATTY, SR. G.P.

RESPONDENTS/PETITIONER & RESPONDENTS 1 TO 4 IN WP(C) :

- 1 THE GENERAL SECRETARY, MILMA WORKERS
UNION (AITUC) ,
KODER LANE, STATE, THIRUVANANTHAPURAM.
- 2 THE KERALA STATE CO-OPERATIVE EMPLOYEES PENSION
BOARD,
TRIVANDRUM, REPRESENTED BY ITS SECRETARY.
- 3 THE EMPLOYEES PROVIDENT FUND ORGANIZATION,
TRIVANDRUM, REPRESENTED BY ITS COMMISSIONER.

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

..2..

- 4 THE ASSISTANT PROVIDENT FUND COMMISSIONER (C&R) ,
PATTOM, THIRUVANANTHAPURAM.
- 5 THE KERALA CO-OPERATIVE MILK MARKETING
FEDERATION (KCMMF LTD.) , MILMA BHAVAN,
TRIVANDRUM, REPRESENTED BY ITS MANAGING
DIRECTOR.

SMT.LATHA ANAND, STANDING COUNSEL FOR R5
SMT.NITA N.S. , STANDING COUNSEL FOR EPF FOR R3
& R4

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
27.05.2022, ALONG WITH W.A.NO.53/2022 AND W.A.NOS.1372,
1444, 1670 & 1671 OF 2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

..3..

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

FRIDAY, THE 27TH DAY OF MAY 2022 / 6TH JYAISHTA, 1944

WA NO. 53 OF 2022

AGAINST THE JUDGMENT IN WP(C).NO.15654/2011 OF THE HIGH
COURT OF KERALA

APPELLANTS/RESPONDENTS 1, 5 & 6 IN WP(C) :

- 1 STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF CO-OPERATION,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001.
- 2 THE DIRECTOR,
DAIRY DEVELOPMENT DEPARTMENT,
PATTOM, THIRUVANANTHAPURAM, PIN - 695004.
- 3 REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM, PIN - 695014.

SRI.ASOK M.CHERIAN, ADDL. A.G.
SRI.SAIGI JACOB PALATTY, SR. G.P.

RESPONDENTS/PETITIONERS & RESPONDENTS 2,3,4 & 7 IN WP(C) :

- 1 XAVIER PEREIRA,
SPECIAL GRADE TECHNICIAN BOILER OPERATOR,
THE THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE
MILK PRODUCERS UNION LTD. ,
KSHEERA BHAVAN, PATTOM,
THIRUVANANTHAPURAM, PIN - 695004.

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

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- 2 SASIDHARAN NAIR,
SUBHADRA NIVAS, KURISUMUTTOM,
PEYAD P.O, THIRUVANANTHAPURAM , PIN - 695005
- 3 THE MILMA WORKERS UNION,
AITUC (ALL INDIA TRADE UNION CONGRESS) ,
KODER LANE STATUE, THIRUVANANTHAPURAM PIN -
695001, REPRESENTED BY ITS GENERAL SECRETARY,
SRI.KUTTIYANIKADU MADHU.
- 4 THE KERALA CO-OPERATIVE MARKETING FEDERATION
LTD., REPRESENTED BY ITS MANAGING DIRECTOR,
MILMA BHAVAN, PATTOM, THIRUVANANTHAPURAM,
PIN - 695004
- 5 THE TRIVANDRUM REGIONAL CO-OPERATIVE MILK
PRODUCERS UNION LTD., REPRESENTED BY ITS
MANAGIND DIRECTOR, KSHEERA BHAVAN,
PATTOM, THIRUVANANTHAPURAM, PIN - 695004.
- 6 THE REGIONAL PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANIZATION,
REGIONAL OFFICE, BHAVISHYA NIDHI BHAVAN,
PATTOM, THIRUVANANTHAPURAM, PIN - 695004.
- 7 THE KERALA STATE CO-OPEATIVE EMPLOYEES PENSION
BOARD, REPRESENTED BY ITS SECRETARY, RAJASREE
T.C. 28/2781, CHETTikulANGARA,
THIRUVANANTHAPURAM, PIN - 695001

ADV. SRI.ELVIN PETER, FOR R1
SMT.LATHA ANAND, STANDING COUNSEL FOR R4, R5
SMT. NITA.N.S., STANDING COUNSEL FOR R6

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
27.05.2022, ALONG WITH W.A.NO.22/2022 AND W.A.NOS.1372,
1444, 1670 & 1671 OF 2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

..5..

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

FRIDAY, THE 27TH DAY OF MAY 2022 / 6TH JYAISHTA, 1944

WA NO. 1372 OF 2021

AGAINST THE JUDGMENT IN WP(C).NO.15654/2011 OF THE HIGH
COURT OF KERALA

APPELLANTS/RESPONDENTS 2 & 3:

- 1 THE KERALA CO-OPERATIVE MILK MARKETING
FEDERATION LIMITED,
REPRESENTED BY ITS MANAGING DIRECTOR, MILMA
BHAVAN, PATTOM, THIRUVANANTHAPURAM-695 005.

- 2 THE THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE
MILK PRODUCERS UNION LTD.,
REPRESENTED BY ITS MANAGING DIRECTOR, KSHEERA
BHAVAN, PATTOM, THIRUVANANTHAPURAM-695 005.

BY ADVS. SMT.LATHA ANAND & SRI. S.VISHNU
(ARIKATTIL)

RESPONDENTS, PETITIONERS 1 TO 3 AND RESPONDENT 1 AND

4 TO 7:

- 1 XAVIER PEREIRA,
SPECIAL GRADE TECHNICIAN BOILER OPERATOR, THE
THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE MILK
PRODUCERS UNION LTD., KSHEERA BHAVAN, PATTOM,
THIRUVANANTHAPURAM-695 005.

- 2 SASIDHARAN NAIR,
SUBHADRA NIVAS, KURUSUMUTTOM, PEYAD,
THIRUVANANTHAPURAM-695 005.

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

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- 3 THE MILMA WORKERS UNION
A.I.T.U.C (ALL INDIA TRADE UNION CONGRESS),
KODER LANE, STATUE, THIRUVANANTHAPURAM-695 001
REPRESENTED BY ITS GENERAL SECRETARY,
SRI.KUTTUYANIKADU MADHU.
- 4 STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF COOPERATION, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
- 5 THE REGIONAL PROVIDENT FUND COMMISSIONER,
EMPLOYEES PROVIDENT FUND ORGANIZATION, REGIONAL
OFFICE, BHAVISHYA NIDHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM-695 005.
- 6 THE DIRECTOR,
DAIRY DEVELOPMENT DEPARTMENT, PATTOM,
THIRUVANANTHAPURAM-695 005.
- 7 THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM.
- 8 THE KERALA STATE CO-OPERATIVE EMPLOYEES PENSION
BOARD, REPRESENTED BY ITS SECRETARY, RAJASREE,
T.C.28/2781, CHETTikulANGARA, THIRUVANANTHAPURAM.

SRI.ASOK M.CHERIAN, ADDL. A.G.
SRI.SAIGI JACOB PALATTY, SR. G.P.
ADV.SRI.P.J.ELVIN PETER, FOR R1 TO R3
ADV.SMT.NITA N.S., FOR R5
ADV. SRI.M.SASINDRAN FOR R8

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
27.05.2022, ALONG WITH W.A.NOS.53 & 22 OF 2022 AND
W.A.NOS.1444, 1670 & 1671 OF 2021, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

..7..

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

FRIDAY, THE 27TH DAY OF MAY 2022 / 6TH JYAISHTA, 1944

WA NO. 1444 OF 2021

AGAINST THE JUDGMENT IN WP(C).NO.964/2009 OF THE HIGH
COURT OF KERALA

APPELLANT/RESPONDENT NO.4:

THE KERALA CO-OPERATIVE MILK MARKETING
FEDERATION LIMITED,
REPRESENTED BY ITS MANAGING DIRECTOR, MILMA
BHAVAN, PATTOM, THIRUVANANTHAPURAM - 695 005.

BY ADV SMT.LATHA ANAND,
ADV.SRI.M.N.RADHAKRISHNA MENON

RESPONDENTS/PETITIONER AND RESPONDENTS 1 TO 3 & 5:

- 1 THE GENERAL SECRETARY,
MILMA WORKERS UNION (AITUC), KODER LANE, STATUE,
THIRUVANANTHAPURAM - 695001.
- 2 KERALA STATE CO-OPERATIVE EMPLOYEES PENSION
BOARD, PENSION BOARD, TRIVANDRUM, REPRESENTED BY
ITS SECRETARY.
- 3 THE EMPLOYEES PROVIDENT FUND ORGANIZATION,
PATTOM, TRIVANDRUM - 695 005, REPRESENTED BY ITS
COMMISSIONER.

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

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4 THE ASSISTANT PROVIDENT FUND COMMISSIONER
(C & R), PATTOM, THIRUVANANTHAPURAM - 695 005.

5 STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
CO-OPERATION, SECRETARIAT, THIRUVANANTHAPURAM -
695 001.

SRI.ASOK M.CHERIAN, ADDL. A.G.
SRI.SAIGI JACOB PALATTY, SR. G.P.
ADV.SRI.G.S.REGHUNATH FOR R1.
SMT.NITA N.S., SC FOR EPF FOR R3 & R4.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
27.05.2022, ALONG WITH W.A.NOS.53 & 22 OF 2022 AND
W.A.NOS.1372, 1670 & 1671 OF 2021, THE COURT ON THE SAME
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1372, 1444, 1670 & 1671 of 2021

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

FRIDAY, THE 27TH DAY OF MAY 2022 / 6TH JYAISHTA, 1944

WA NO. 1670 OF 2021

AGAINST THE JUDGMENT IN WP(C).NO.964/2009 OF THE HIGH
COURT OF KERALA

APPELLANT/1ST RESPONDENT:

KERALA STATE CO-OPERATIVE EMPLOYEES' PENSION
BOARD, PENSION BOARD, TRIVANDRUM, REPRESENTED BY
ITS SECRETARY.

ADV. SRI.M.SASINDRAN

RESPONDENTS/PETITIONER AND RESPONDENTS 2 TO 5:

- 1 THE GENERAL SECRETARY,
MILMA WORKERS UNION (AITUC), KODER LANE, STATE,
THIRUVANANTHAPURAM, PIN - 695 004.
- 2 THE EMPLOYEES PROVIDENT FUND ORGANISATION,
THIRUVANANTHAPURAM, REPRESENTED BY ITS
COMMISSIONER, PIN - 695 004.
- 3 THE ASSISTANT PROVIDENT FUND COMMISSIONER (C&R),
PATTOM, THIRUVANANTHAPURAM, PIN - 695 004.

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

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4 KERALA CO-OPERATIVE MILK MARKETING FEDERATION
(KCMF LTD.)
MILMA BHAVAN, THIRUVANANTHAPURAM, REPRESENTED BY
ITS MANAGING DIRECTOR, PIN - 695 004.

5 STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
CO-OPERATION, SECRETARIAT, THIRUVANANTHAPURAM,
PIN - 695 001.

SRI.ASOK M.CHERIAN, ADDL. A.G.
SRI.SAIGI JACOB PALATTY, SR. G.P.
ADV. SMT.LATHA ANAND, FOR R4
ADV. SMT.NITA N.S., FOR R2 & R3

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
27.05.2022, ALONG WITH W.A.NOS.53 & 22 OF 2022 AND
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1372, 1444, 1670 & 1671 of 2021

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ALEXANDER THOMAS

&

THE HONOURABLE MRS. JUSTICE SHOBA ANNAMMA EAPEN

FRIDAY, THE 27TH DAY OF MAY 2022 / 6TH JYAISHTA, 1944

WA NO. 1671 OF 2021

AGAINST THE JUDGMENT IN WP(C).NO.15654/2011 OF THE HIGH
COURT OF KERALA

APPELLANTS/7TH RESPONDENT:

THE KERALA STATE CO-OPERATIVE EMPLOYEES PENSION
BOARD, REPRESENTED BY ITS SECRETARY,
RAJASREE, T C 28/2781, CHETTIKULANGARA,
THIRUVANANTHAPURAM.

BY ADV SRI.M.SASINDRAN

RESPONDENTS/PETITIONERS AND RESPONDENTS 1 TO 6:

- 1 XAVIER PEREIRA,
SPECIAL GRADE TECHNICIAN BOILER OPERATOR,
THE THIRUVANANTHAPURAM REGIONAL CO-OPERATIVE
MILK, PRODUCERS UNION LTD., KSHEERA BHAVAN,
PATTOM, THIRUVANANTHAPURAM-695 004.
- 2 SASIDARAN NAIR
SUBHADRA NIVAS, KURISUMUTTOM, PEYAD (P.O),
THIRUVANANTHAPURAM-695 005.
- 3 THE MILMA WORKERS UNION
A.I.T.U.C. (ALL INDIA TRADE UNION CONGRESS),
KODER LANE, STATUE, THIRUVANANTHAPURAM,,
REPRESENTED BY ITS GENERAL SECRETARY,
SRI.KUTTIYANIKADU MADHU.

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

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- 4 STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT,
DEPARTMENT OF CO-OPERATION,
SECRETARIAT, THIRUVANANTHAPURAM-695001.
- 5 THE KERALA CO-OPERATIVE MARKETING FEDERATION LTD
REPRESENTED BY ITS MANAGING DIRECTOR,
MILMA BHAVAN, PATTOM, THIRUVANANTHAPURAM-695004.
- 6 THE TRIVANDRUM REGIONAL CO-OPERATIVE MILK
PRODUCERS UNION LTD.
REPRESENTED BY ITS MANAGING DIRECTOR, KSHEERA
BHAVAN, PATTOM, THIRUVANANTHAPURAM-695004.
- 7 THE REGIONAL PROVIDENT FUND COMMISSIONER
EMPLOYEES PROVIDENT FUND ORGANIZATION,
REGIONAL OFFICE, BHAVISHYA NIDHI BHAVAN, PATTOM,
THIRUVANANTHAPURAM-695004.
- 8 THE DIRECTOR,
DAIRY DEVELOPMENT DEPARTMENT, PATTOM,
THIRUVANANTHAPURAM-695001.
- 9 THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
THIRUVANANTHAPURAM, PIN-695001.

SRI.ASOK M.CHERIAN, ADDL. A.G.
SRI.SAIGI JACOB PALATTY, SR. G.P.
ADV. SMT.LATHA ANAND, FOR R5
ADV. SMT.NITA N.S., FOR R7

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
27.05.2022, ALONG WITH W.A.NOS.53 & 22 OF 2022 AND
W.A.NOS.1372, 1444 & 1670 OF 2021, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

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ALEXANDER THOMAS & SHOBA ANNAMMA EAPEN, JJ.

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W.A Nos. 22 & 53 of 2022 and 1372, 1444, 1670 & 1671 of 2021

*(arising out of the impugned common judgment dated 24.3.2021 in
WP(C). Nos. 964/2009 & 15654/2011),*

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Dated this the 27th day of May, 2022

J U D G M E N T

ALEXANDER THOMAS, J.

The first two appeals are preferred by the State of Kerala, the next two appeals are preferred by the Kerala Co-operative Milk Marketing Federation Ltd. and the last two appeals are preferred by the Kerala State Co-operative Employees' Pension Board, to impugn the common judgment dated 24.3.2021 rendered by the learned Single Judge in the above WP(C)s.

2. Sri.Asok M.Chерian, learned Additional Advocate General instructed by Sri.Saigi Jacob Palatty, learned Senior Government Pleader appearing for the State authorities as well as Smt.Latha Anand, learned Standing Counsel for the Kerala

Co-operative Marketing Federation Ltd. would urge that the main objection raised by their parties is only regarding the observation made by the learned Single Judge in the impugned common judgment in the above WP(C)s in para 11 thereof, wherein it has been observed as, if the competent authority of the State Government in the Co-operation Department is obliged to initiate steps for causing a notification for exemption under Sec.17(1) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (Central Act No.19 of 1952) with retrospective effect, and that consequently, the Regional Provident Fund Commissioner will take further action for ensuring the transfer of the contributions of both the employer and employees to the Employees Pension Scheme 1994, etc.

3. The learned Additional Advocate General and the learned Standing Counsel would point out that matters relating to the issue, as to whether exemption is to be granted in terms of Sec.17(1) of the Act, are aspects which are within the exclusive discretionary domain and province of the competent State

authority, and after consultation with the Central Provident Fund Commissioner, and the impugned directions in the judgment in the WP(C)s will give an impression as if it is ordered in the judgment that the State has no discretion but to grant exemption, and to issue the notification under Sec.17(1), etc.

4. Sec.17(1) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, provides as follows:

“Sec.17. Power to exempt.—(1)The appropriate Government may, by notification in the Official Gazette, and subject to such conditions as may be specified in the notification, exempt, whether prospectively or retrospectively, from the operation of all or any of the provisions of any Scheme—

(a) any establishment to which this Act applies if, in the opinion of the appropriate Government, the rules of its Provident Fund with respect to the rates of contribution are not less favourable than those specified in section 6 and the employees are also in enjoyment of other Provident Fund benefits which on the whole are not less favourable to the employees than the benefits provided under this Act or any Scheme in relation to the employees in any other establishment of a similar character; or

(b) any establishment if the employees of such establishment are in enjoyment of benefits in the nature of Provident Fund, pension or gratuity and the appropriate Government is of opinion that such benefits, separately or jointly, are on the whole not less favourable to such employees than the benefits provided under this Act or any Scheme in relation to employees in any other establishment of a similar character:

Provided that no such exemption shall be made except after consultation with the Central Board which on such consultation shall forward its views on exemption to the appropriate Government within such time limit as may be specified in the Scheme.”

5. Para 11 (concluding para) of the impugned common judgment dated 24.3.2021 in these WP(C)s rendered by the learned Single Judge, reads as follows:

“11. As an upshot of my findings, I dispose of the writ petitions by directing the Additional Chief Secretary, Department of Cooperation, in consultation with the 4th respondent Regional Provident Fund Commissioner to initiate steps for causing a notification under Section 17 (1) of the Act with retrospective effect as none of the parties to the lis can be faulted with, as expeditiously as possible. On causing of the notification with retrospective effect, the Regional Provident Fund Commissioner will transfer the contributions of both employer and employees to the Employees Pension scheme 1994. The Pension Board thereafter, after calculation of the amount and interest, if any, due from the cut off date ie. the date of Notification Ext.P3, shall disburse not only to the petitioners or the members of the unions but to any other affected parties in order to prevent multifariousness of litigation. In other words, the direction of this Court will enure the benefit to all the affected parties. This court is sanguine of the fact that expression 'expeditiously' cannot be expressed for an infinite period.”

6. The 2nd sentence in para 11 of the judgment dated 24.3.2021 in WP(C).No.15654/2011 has been corrected and modified by the learned Single Judge, as per order dated 28.7.2021 in I.A. No. 1/2021 in WP(C).No.15654/2011, as follows :

“On causing of the notification with retrospective effect, the Regional Provident Fund Commissioner will transfer the contributions of both employer and employees to the Co-operative Employees Pension Board to include the petitioners in the Co-operative Employees Self Financing Scheme, 1994.”

7. Per contra, the learned advocates appearing for the respondents in the W.A./writ petitioners would point out that all what was to be directed is that the competent authority of the State Government should take appropriate steps for causing a notification and that therefore, the objections of the appellants appear too far-fetched.

8. After hearing both sides, to avoid any further ambiguity or confusion, it is ordered and clarified that the respondent State Government will have to seriously consider the issue as to whether exemption in terms of Sec.17(1) should be granted in the instant cases, and after due consultation with the Regional Provident Fund Commissioner as mandated in that provision, and also after ascertaining from the Regional Provident Fund Commissioner as well as from other stakeholders including the Co-operative Societies concerned and the representatives of their employees, as to whether the statutory parameters as per Sec.17(1), more particularly, Clauses '(a)', '(b)' and the proviso thereto, are satisfied for invocation of the discretion as per Sec.17(1) in the instant case.

So, essentially, the State will have to bestow their anxious consideration and exercise discretion in a sound and judicious manner, and also taking into account the various relevant aspects of the matter.

9. Therefore, these issues should not be considered mechanically by the State Government, and the competent authority of the State Government, should also be alive to the serious concerns as made out by the writ petitioners, and the decision as to whether exemption is to be granted should be taken after exercise of sound discretion in a wise and prudent manner. Therefore, it is made clear that these are all matters which are essentially within the discretionary domain of State Government, and it is for them to take into consideration all relevant aspects of the matter, including the parameters laid down in Sec.17(1) of the Central Act, more particularly Clauses '(a)', '(b)' and the proviso thereto. Such decision may be taken by the State Government after effective and wide consultation with not only the Regional Provident Fund Commissioner but all the stakeholders.

10. For the purpose of clarity, it is ordered that the affected persons will be at liberty to give their written submissions in the matter to the State Government. So also, the Kerala State Co-operative Employees Pension Board may also give their considered views in the matter.

11. Prior notice of hearing may be given by the State Government to the writ petitioners and the Co-operative Societies concerned in these cases, as well as the representatives of the employees of the Co-operative Societies concerned in these cases, and they may be also given time to take the written submissions in the matter. After due consultation as above, including that with the Regional Provident Fund Commissioner, a considered decision shall be taken by the State Government in exercise of their sound discretion in a wise and prudent manner, within a reasonable time limit not exceeding a period of 6 months from the date of receipt of a certified copy of this judgment.

The judgment of the learned Single Judge will stand modified and substituted as above.

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

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With these observations and directions, the above Writ
Appeals will stand finally disposed of.

Sd/-

ALEXANDER THOMAS, JUDGE

Sd/-

SHOBA ANNAMMA EAPEN, JUDGE

MMG

W.A Nos. 22 & 53 of 2022 and
1372, 1444, 1670 & 1671 of 2021

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APPENDIX OF WA.NO.22/2022

PETITIONER'S ANNEXURES:

ANNEXURE A1 COPY OF WRIT APPEAL NO.1444/2021

ANNEXURE A2 COPY OF ORDER DATED 08.11.2021 IN
W.A.NO.1444/2021