

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 22ND DAY OF OCTOBER 2019 / 30TH ASWINA, 1941

WP(C).No.22090 OF 2019(I)

PETITIONER/S:

BIJU ABRAHAM, AGED 51 YEARS, SECRETARY (UNDER
SUSPENSION) PADAMUGHAM, KSHEEROLPADAKA SAHAKARANA
SAMGAM LTD NO. 122 (D), RESIDING AT ELAVUMKUNNEL
HOUSE, PADAMUGHAM P.O, IDUKKI, PIN-685 604.

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENT/S:

- 1 THE PADAMUGHAM KSHEEROLPADAKA SAHAKARANA SAMGAM LTD.
NO. 122 (D), APCOS, PADAMUGHAM, IDUKKI-REPRESENTED BY
ITS SECRETARY, PIN-685 604.
- 2 THE MANAGING COMMITTEE, THE PADAMUGHAM,
KSHEEROLPADAKA SAHAKARANA SAMGAM LTD NO.122 (D) ,
APCOS, PADAMUGHAM, IDUKKI-685 604.
- 3 THE DISCIPLINARY SUB COMMITTEE
CONSTITUTED TO CONDUCT DOMESTIC ENQUIRY AGAINST THE
PETITIONER, REPRESENTED BY ITS CONVENER-SIBICHAN
JOSEPH, PADAMUGHAM, KSHEEROLPADAKA SAHAKARANA SAMGAM
LTD NO. 122 (D), APCOS, PADAMUGHAM, IDUKKI-685 604.
- 4 SRI.K.A BABY, ADVOCATE, (ENQUIRY OFFICER,
KRISHNA ARCADE, KANJIRAMATTOM BYPASS JUNCTION,
THODUPUZHA-685 584.

R1-3 BY ADV. SRI.P.N.MOHANAN

R4 BY ADV. SRI.T.J.MICHAEL

BY SENIOR GOVERNMENT PLEDER, SMT.SHEEJA C S

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
22.10.2019, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 22nd day of October 2019

This writ petition was filed by the Secretary of the Society challenging the suspension as well as the proceedings of the disciplinary enquiry initiated against him.

2. The petitioner was suspended on 09.02.2019, pending enquiry. As seen from Ext.P1, the suspension order was communicated by the President of the Society. It is seen that a decision was taken by the Managing Committee as per Resolution No.4 to suspend the petitioner.

3. The petitioner's case is that the petitioner need not be kept under suspension any more for the simple reason that no charge memo was issued to him by the Managing Committee. It is further stated that the disciplinary authority's decision to extend suspension is illegal and unsustainable. It was argued that subsequent decision of the Managing Committee to ratify the decision

of the disciplinary authority for continuance of suspension has no legal basis.

4. The petitioner has been suspended on various charges. These charges are related to the misappropriation of funds of the society. I am not adverting to any of the contents in the charge memo. In regard to the continuation of suspension, I am of the view that a decision taken by the Managing Committee to ratify the suspension is valid in as much as that the Management is competent to decide the same, even though such decision was taken by ratifying the decision of disciplinary Committee. Once such decision gets approval of the Managing Committee, the decision itself became the decision of Management Committee.

5. The learned counsel for the Society would submit that the Managing Committee would issue fresh charge memo. That be so, it shall be done within two weeks from the date of receipt of a copy of this judgment. If not the petitioner shall be reinstated. Taking note of the facts

and circumstances, I am of the view that disciplinary proceedings shall be concluded as expeditiously as possible, at any rate, within two months.

With the above observations, the writ petition is disposed of as above.

sd/-

A.MUHAMED MUSTAQUE

JUDGE

spk

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 TRUE COPY OF THE SUSPENSION ORDER DATED 09/02/2019.
- EXHIBIT P2 TRUE COPY OF THE MEMO OF CHARGES DATED 16/4/2019.
- EXHIBIT P3 TRUE COPY OF THE LETTER DATED 20/05/2019.
- EXHIBIT P4 TRUE COPY OF THE NOTICE DATED 11/7/2019.
- EXHIBIT P5 TRUE COPY OF THE LETTER DATED 25/7/2019 ISSUED TO THE 4TH RESPONDENT.
- EXHIBIT P6 TRUE COPY OF THE LETTER DATED 29/7/2019.

RESPONDENTS EXHIBITS:

- EXT.R2 (A) : A TRUE COPY OF THE REPORT DATED 01.12.2018 OF THE DEPUTY DIRECTOR, DAIRY DEVELOPMENT DEPARTMENT.
- EXT.R2 (B) : A TRUE COPY OF THE RESOLUTION NO.6 DATED 09.07.2019 OF THE BANK.
- EXT.R2 (C) : A TRUE COPY OF THE REPLY DATED 03.05.2019 FILED BY THE PETITIONER.

//TRUE COPY//

P.A.TO JUDGE