

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 07TH DAY OF AUGUST 2019 / 16TH SRAVANA, 1941

WP(C).No.20653 OF 2019(F)

PETITIONERS:

- 1 SOMAN PILLAI,
AGED 76 YEARS
S/O.RAMAN PILLAI, THENGUVILA PUTHENVEEDU, CHITTAYAM,
PERUMON P.O., KOLLAM - 691 601.
- 2 E.V.SAJEEV KUMAR,
AGED 54 YEARS
S/O.VASU PILLA, ELANGALLU VILLA, PERUMON P.O.,
PERINAD, KOLLAM - 691 601.

BY ADVS.

SRI.V.JAYAPRADEEP
SMT.ANN SUSAN GEORGE
SMT.O.A.NURIYA
SRI.D.S.LOKANATHAN
SRI.ALAN PRIYADARSHI DEV

RESPONDENTS:

- 1 THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY, DIARY DEVELOPMENT
DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.
- 2 THE DIRECTOR, DIARY DEVELOPMENT DEPARTMENT,
PATTAM, THIRUVANANTHAPURAM - 695 004.
- 3 THE DEPUTY DIRECTOR,
DIARY DEVELOPMENT DEPARTMENT, NEAR D.C.C.OFFICE,
KOLLAM - 691 001.
- 4 THE KERALA STATE CO-OPERATIVE ELECTION COMMISSION,
CO-BANK TOWER, VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM - 695 033.
- 5 PERUMON-CHITTAYAM KSHEEROLPATHAKA CO-OPERATIVE
SOCIETY LTD.NO.Q 19(D) APCOS,
PERUMON P.O., KOLLAM - 691 601,
REPRESENTED BY ITS SECRETARY.

WP(C).No.20653 OF 2019(F)

2

SMT.C.S.SHEEJA, SR.GP,
SRI.R.LAKSHMI NARAYAN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 07.08.2019, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

JUDGMENT

Dated this the 7th day of August 2019

What is presented in this writ petition is rather very strange because the petitioners contend that the 5th respondent Perumon-Chittayam Ksheerolpathaka Co-operative Society Ltd ("Society" for short hereinafter) does not presently have an Administrative Committee or a Part-time Administrator, after the Managing Committee of the Society has been superseded. They say that an Administrative Committee was earlier appointed under Section 33 of the Kerala Co-operative Societies Act by the Competent Authority but that its term was over on 18.03.2017, it not having been extended after that. They assert that ,therefore, the Society is now functioning without any Management and is under the control of the Secretary; and consequently prays that the State Co-operative Election Commission be directed to take necessary action for conduct of fresh elections to its Managing Committee.

2. On hearing the learned counsel for the petitioners as afore on 07.08.2019, I asked the learned Senior Government Pleader, Smt.C.S.Sheeja, to obtain instructions from the official respondents and she informs me today that assertions of the petitioners appear to be correct and that the Society presently does not have either a Part-time Administrator or an Administrative Committee. She, therefore, says that it will not be possible to adopt a resolution for the purpose of conduct of fresh elections to the Managing Committee by the Secretary, since it is statutorily impermissible. She adds that, in fact, a decision on the extension of the term of the Administrative Committee is still under consideration of the Authorities and that only after such a decision is taken, can a fresh resolution be adopted by the said Committee.

3. When I hear the learned Senior Government Pleader as afore, it is obvious that the present status with respect to the Society is completely contrary to the provisions of the KCS Act and Rules, since it does not, in any manner, postulate the

administration of a Society by its Secretary. Further, the learned Senior Government Pleader is also unable to tell me the precise time frame within which a decision will be taken with respect to the term of the Administrative Committee and I am, therefore, of the firm view that this is a fit case where the competent Joint Registrar is obligated to take a decision for appointment of a Part-time Administrator under Section 33 of the KCS Act immediately.

In the afore perspective, I order this writ petition and direct the 3rd respondent-Deputy Director, Dairy Development Department, who is the functional Joint Registrar with respect to the 5th respondent Society, to appoint a suitable Part-time Administrator to take over charge of the administration of the said Society forthwith; and on the said Administrator taking charge, he/she will adopt the necessary resolution for conduct of fresh elections to the Managing Committee of the Society, not later than 15 days from the date on which he / she takes the charge.

Needless to say, once a resolution is so adopted, the

Part-time Administrator will route the same to the State Co-operative Election Commission through proper channel; which Authority will, thereafter, conduct elections without any avoidable delay, so as to have an elected Managing Committee in charge of the Society at the earliest point of time.

Sd/-

DEVAN RAMACHANDRAN

JUDGE

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APPENDIX

PETITIONERS' EXHIBITS:

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| EXHIBIT P1 | COPY OF THE MINUTES OF THE MEETING DATED 26/04/2019. |
| EXHIBIT P2 | COPY OF THE CHALLAN DATED 27/04/2019. |
| EXHIBIT P3 | COPY OF THE LETTER DATED 20/05/2019 OF R4. |
| EXHIBIT P4 | COPY OF THE LETTER DATED 30/05/2019 OF R3. |
| EXHIBIT P5 | COPY OF LETTER DATED 4/06/2019 OF R4. |

RESPONDENTS' EXHIBITS: NIL

\\TRUE COPY//

PA TO JUDGE