

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

THURSDAY, THE 23RD DAY OF DECEMBER 2021 / 2ND POU SHA, 1943

WP(C) NO. 20777 OF 2021

PETITIONERS:

- 1 THE MOOLATHARA KSHEEROLPADAKA CO OPERATIVE SOCIETY LIMITED
NO. P 65(D)APCOS,
MEENAKSHIPURAM POST, PALAKKAD DISTRICT, PIN CODE:-678533,
REPRESENTED BY ITS SECRETARY.

- 2 THE MANAGING COMMITTEE
THE MOOLATHARA KSHEEROLPADAKA CO-OPERATIVE SOCIETY LIMITED
NO.P 65(D) APCOS,
MEENAKSHIPURAM POST, PALAKKAD DISTRICT, PIN CODE:-678533.
REPRESENTED BY ITS PRESIDENT.

BY ADVS.
GEORGE POONTHOTTAM (SR.)
ARUN CHANDRAN
NISHA GEORGE

RESPONDENTS:

- 1 THE GOVERNMENT OF KERALA
GOVERNMENT SECRETARIAT, STATUE,
THIRUVANANTHAPURAM DISTRICT,
REPRESENTED BY ITS SECRETARY,
AGRICULTURE (DAIRY DEVELOPMENT)DEPARTMENT.

- 2 THE DIRECTOR,
DAIRY DEVELOPMENT DEPARTMENT, PATTOM, THIRUVANANTHAPURAM,
PIN CODE:-695004.

- 3 THE DEPUTY DIRECTOR,
DAIRY DEVELOPMENT DEPARTMENT, CIVIL STATION, PALAKKAD
DISTRICT,
PIN-678001.

- 4 THE KARAPPUTHURAIKKAD KSHEEROLPADAKA-SAHAKARANA SANGHAM,
MEENAKSHIPURAM POST, PALAKKAD DISTRICT,
PIN CODE:- 678533, REPRESENTED BY ITS CHIEF PROMOTER.

5 KRISNASAMY.R
S/O RAKKIYAPPA GOUNDER, KARAPPUTHURAIKKAD, MEENAKSHIPURAM
POST,
MEENAKSHIPURAM POST, PALAKKAD DISTRICT, PIN CODE:-678533.

BY ADVS.
SRI.JAFFAR KHAN SPL. GOVERNMENT PLEADER
SHRI.K.P.JAYACHANDRAN, ADDL. ADVOCATE GENERAL
NIRMAL.S
VEENA HARI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
23.12.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SATHISH NINAN, J.

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W.P.(C) No.20777 of 2021

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Dated this the 23rd day of December, 2021

J U D G M E N T

Government Order under Section 101 of the Kerala Co-operative Societies Act, exempting the 4th respondent Society from the operation of Section 7(1)(c) of the Act, is under challenge in this writ petition.

2. The petitioner is a dairy co-operative society. Its area of operation is in Ward Nos.9, 10 and 11 of Perumatty Grama Panchayat. At the request of the 4th respondent Society, they were exempted from the operation of Section 7(1)(c) of the Act and were permitted to have their operations in Ward Nos.9 and 11 of the Perumatty Grama Panchayat which falls within the area of operation of the petitioner Society.

3. Heard Sri.Arun Chandran, learned counsel for the petitioners, Sri.Jaffar Khan, learned Special Government Pleader and Sri.Nirmal S., learned counsel for respondents 4 and 5.

4. It is seen that the order of exemption is based on an inquiry report submitted by the Assistant Director. The report refers to statements of certain residents expressing difficulties in having access to the present collection centres. The Union has imposed a restriction whereunder more than 14,149/- litres of milk per day cannot be supplied to the Union. As per the data obtained, the petitioner Society is collecting more than 14,500 litres of milk per day. However, as noticed, the petitioner Society cannot supply more than 14,149/- litres of milk per day to the Union. It is on the basis of the said materials that the Government has passed Ext.P2 order of exemption.

5. The main apprehension of the petitioner is that, from out of the Managing Committee of the petitioner Society which consists of eight members, as many as six members are from Ward Nos.9 and 11, and that as a consequence of Ext.P2 order of exemption they will lose their membership. A reading of Ext.P2 Government Order

shows that all that has been granted is an exemption to the 4th respondent Society from the operation of Section 7(1)(c) which prohibits overlapping in the area of operation of Societies. No portion of the area of operation of the petitioner Society has been taken away. The consequence of the order of exemption is only that, the 4th respondent Society can also function in Ward Nos.9 and 11 along with the petitioner Society.

6. At this stage, it is appropriate to refer to paragraph 9 of the counter affidavit of the first respondent, the relevant portion of which reads thus:-

“It is respectfully submitted that there will be no delimitation of the area of operation of the petitioner Society as alleged in the writ petition. The formation of the new Society will not affect the existence of membership of the petitioner Society and therefore, there is no legal ground to challenge the Government Order.”

7. In view of the above, evidently the apprehension of the petitioner does not survive.

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-: 4 :-

Clarifying that Ext.P2 Government Order shall not be understood to affect/limit the area of operation of the petitioner Society, the writ petition is disposed of.

Sd/-
SATHISH NINAN
JUDGE

kns/-

//True Copy//

P.S. to Judge

APPENDIX OF WP(C) 20777/2021

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE RELEVANT PAGES OF THE BYE-LAWS OF THE PETITIONER'S SOCIETY EVIDENCING THE AREA OF OPERATION AT THE TIME OF REGISTRATION.
- Exhibit P2 TRUE COPY OF THE GOVERNMENT ORDER BEARING G.O.(P)NO.15/2021/DD DATED 15.04.2021 ISSUED BY THE 1ST RESPONDENT.
- Exhibit P3 TRUE COPY OF THE ORDER NO.C/1880/16/K.DIS DATED 27.06.2016 ISSUED BY THE 3RD RESPONDENT.
- Exhibit P4 TRUE COPY OF THE ORDER NO.DDDKER/10078/2020-D3 DATED 29.07.2020 ISSUED BY THE 2ND RESPONDENT.
- Exhibit P5 TRUE COPY OF THE NEWSPAPER REPORT PUBLISHED IN THE MALAYALA MANORAMA DAILY DATED 15.01.2021.
- Exhibit P5(A) TRUE COPY OF THE NEWSPAPER REPORT PUBLISHED IN THE MATHRUBHUMI DAILY DATED 06.08.2021.

RESPONDENT EXHIBITS

- Exhibit R4(a) TRUE COPY OF THE REPORT OF THE QUALITY CONTROL OFFICER DATED 19/9/2014.
- Exhibit R4(b) TRUE COPY OF THE JUDGMENT DATED 08/01/2015.
- Exhibit R4(c) TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT DATED 30.01.2016.
- Exhibit R4(d) TRUE COPY OF THE SURVEY REPORT.
- Exhibit R4(e) TRUE COPY OF THE REPORT OF DIARY DEVELOPMENT OFFICER DATED 13/08/2020.
