

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

TUESDAY, THE 15TH DAY OF MARCH 2022 / 24TH PHALGUNA, 1943

WP(C) NO. 24563 OF 2021

PETITIONER/S:

MR.GOPALAKRISHNA KURUP.K
AGED 69 YEARS
S/O.KARUNAKARA KURUP, VISHAKH, CHIRAKKARA P.O.,
CHIRAKKARA, KALLUVATHUKKAL, KOLLAM DISTRICT, PIN-
691578. (FORMER PRESIDENT, CHIRAKKARA KSHEEROLPADAKA
SAHAKARANA SANGHAM LTD.NO.Q352(D), APCOS, CHIRAKKARA,
CHIRAKKARA P.O., KOLLAM DISTRICT.
BY ADV K.S.MOHAMED HASHIM

RESPONDENT/S:

- 1 THE DEPUTY DIRECTOR, DAIRY DEVELOPMENT DEPARTMENT,
KOLLAM DISTRICT, MUNDAKKAL, KOLLAM, PIN-691001.
- 2 DAIRY EXTENSION OFFICER, DAIRY DEVELOPMENT DEPARTMENT,
CHATHANNOOR, CHATHANNOOR P.O., KOLLAM DISTRICT, PIN-
691572.
- 3 CHIRAKKARA KSHEEROLPADAKA SAHAKARANA SANGHAM LTD.NO.Q
352(D), APCOS, CHIRAKKARA, CHIRAKKARA P.O., KOLLAM
DISTRICT, PIN-691578, REPRESENTED BY ITS SECRETARY.
- 4 SINDHU.K., CONVENOR, ADMINISTRATIVE COMMITTEE,
CHIRAKKARA KSHEEROLPADAKA SAHAKARANA SANGHAM LTD.NO.Q
352(D), APCOS, CHIRAKKARA, CHIRAKKARA P.O., KOLLAM
DISTRICT, RESIDING AT KRISHNAVILASM, EDAVATTOM,
CHIRAKKARA P.O., KOLLAM DISTRICT, PIN-691578.
- 5 SANTHAKUMARI AMMA, MEMBER, ADMINISTRATIVE COMMITTEE,
CHIRAKKARA KSHEEROLPADAKA SAHAKARANA SANGHAM LTD.NO.Q
352(D), APCOS, CHIRAKKARA, CHIRAKKARA P.O., KOLLAM
DISTRICT, PIN-691578, RESIDING AT HARITHASREE,
EDA VATTAM, CHIRAKKARA PO., KOLLAM DISTRICT, PIN-691578.
- 6 SREEDHARAN PILLAI.K, MEMBER, ADMINISTRATIVE COMMITTEE,
CHIRAKKARA KSHEEROLPADAKA SAHAKARANA SANGHAM LTD.NO.Q
352(D), APCOS, CHIRAKKARA, CHIRAKKARA P.O., KOLLAM
DISTRICT, PIN-691578, RESIDING AT SREEBHAVAN,
EDA VATTAM, CHIRAKKARA P.O., KOLLAM DISTRICT, PIN-691578.
BY ADVS.
S.SREEKUMAR (KOLLAM)
GP: SRI.JAFAR KHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
15.03.2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The petitioner was the elected president of the 3rd respondent society. The strength of the managing committee of the 3rd respondent society is 9 (NINE). The committee assumed office on 10.12.2018. Since five of the committee members resigned from office, the committee lost quorum, and the 1st respondent as per Ext.P1, appointed an Administrator in terms of Section 33 of the Kerala Co-operative Societies Act. Subsequently, as per Ext.P2, the Administrator was replaced by an Administrative Committee. The Administrative Committee, which consist of three members, was constituted by including two of the resigned members namely the respondents 5 and 6. The petitioner challenges Exts.P1 and P2 orders.

2. Heard Sri.K.S.Mohamad Hashim, the learned counsel for the petitioner, Sri.Jafar Khan, the learned Senior Government Pleader and Sri.S.Sreekumar, the learned counsel for the respondents 3 and 4.

3. The challenge against Ext.P1 is on the

ground that the submission of resignation was not to the president but was to the 1st respondent. The resigned members do not have a case that they intend/intended to continue in office. Five out of the nine members of the committee are at logger heads with the President. They having expressed their non-cooperation, the committee cannot function. The 1st respondent being the supervisory authority competent to invoke the powers in terms of Section 33 of the Act, I do not consider it appropriate or necessary to interfere with the action.

4. However, I do find force in the challenge raised by the petitioner against Ext.P2 order. The 1st respondent has constituted an Administrative Committee by including the members who resigned from the office. Resignation of elected members from the office cannot be said to be an action in the interests of the society. Appointing such persons in the Administrative Committee is to be avoided. The said view has been adopted by this Court (see W.P.(C) No.25091/2020 and

W.A.No.1749/2020). So also, a Division Bench of this Court has in ***State Co-operative Election Commission & another v. N.P.Paulose [W.A. No.1410 of 2017]*** held that, even while constituting an Administrative Committee, unless there are justifiable reasons to exclude members of the society, a foreigner to the society is not to be considered/opted.

5. Through the statement filed by the 1st respondent, it is placed on record that the Administrative Committee members gave up the office and an Administrator is in charge since 25.11.2021. At this distance of time, I do not think that there should be a displacing of the officer. It would be sufficient if election to the office is conducted without delay. However, if there is any proposal to replace the Administrator with an Administrative Committee, the same shall be constituted from among the members of the former managing committee, who had not resigned from office.

Accordingly, the Writ Petition is disposed of

with the following directions:-

1. The Administrator shall have taken all steps for conduct of election to the managing committee of the 3rd respondent society, including adopting of resolution, without any delay, and have the election conducted not later than three months from today.

2. If the part time Administrator is proposed to be replaced by an Administrative Committee, the members of the former managing committee who had not given up their office, shall be considered.

3. No policy decisions shall be taken by the Administrator/Administrative Committee in office.

4. The 1st respondent shall communicate the judgment to the part time Administrator forthwith, for compliance.

Sd/-

SATHISH NINAN

JUDGE

sd

APPENDIX OF WP(C) 24563/2021

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE ORDER DATED 12.10.2021
PASSED BY THE 1ST RESPONDENT WITH TYPED
COPY.
- Exhibit P2 A TRUE COPY OF THE ORDER DATED 21.10.2021 OF
THE 1ST RESPONDENT.
- Exhibit P3 A TRUE COPY OF THE COMPLAINT DATED
27.10.2021 SUBMITTED BY PETITIONER BEFORE
THE 1ST RESPONDENT.