

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 15TH DAY OF JUNE 2016/25TH JYAISHTA, 1938

WP(C).No. 20149 of 2016 (P)

PETITIONER(S) :

**BOARD OF DIRECTORS OF THE EDAPPON KSHEEROLPADAKA
SAHAKARANA SANGAM LTD. NO. A 30(D) APCOS,
REPRESENTED BY ITS PRESIDENT,
IRANIKUDY P.O., EDAPON, ALAPPUZHA DISTRICT.**

**BY ADVS. SRI.V.G.ARUN
SRI.T.R.HARIKUMAR
SRI.JAIBY PAUL**

RESPONDENT(S) :

**THE DEPUTY DIRECTOR,
DAIRY DEVELOPMENT DEPARTMENT,
ALAPPUZHA- 688 001.**

BY SR. GOVERNMENT PLEADER SRI. V.VIJULAL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-06-2016, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

- P1 A TRUE COPY OF THE AUDIT REPORT FOR THE YEAR 2012-2013
 DATED 31-10-2013.**
- P2 A TRUE COPY OF THE ORDER NO.2111/2011 DATED 11-11-2011
 ISSUED BY THE RESPONDENT.**
- P3 A TRUE COPY OF THE RESOLUTION NO.5 DATED 28.11.2011.**
- P4 A TRUE COPY OF THE NOTICE NO. C/2111/2011 DATED 04.06.2012
 ISSUED BY THE RESPONDENT.**
- P5 A TRUE COPY OF THE NOTICE NO. C/2111/2011 DATED 26.06.2012
 ISSUED BY THE RESPONDENT.**
- P6 A TRUE COPY OF THE REPLY SUBMITTED BY THE PRESIDENT
 BEFORE THE RESPONDENT DATED 10.07.2012.**
- P7 A TRUE COPY OF THE NOTICE NO.E/2375/2013 DATED 19.12.2013
 ISSUED BY THE RESPONDENT.**
- P8 A TRUE COPY OF THE REPLY SUBMITTED BY THE PRESIDENT
 BEFORE THE RESPONDENT DATED 26.12.2013.**
- P9 A TRUE COPY OF THE NOTICE NO.E/2375/2013 DATED 15.01.2014
 ISSUED BY THE RESPONDENT.**
- P10 A TRUE COPY OF THE COMMUNICATION NO.C/3109/2013
 DATED 26.05.2016 ISSUED BY THE RESPONDENT.**
- P11 A TRUE COPY OF THE REPLY SUBMITTED BEFORE
 THE RESPONDENT DATED 03.06.2016.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

SHAJI P. CHALY, J.

W.P.(C). No. 20149 of 2016

Dated this the 15th day of June, 2016

JUDGMENT

This writ petition is filed by the petitioner seeking to quash Ext.P10 show cause notice issued by the respondent asking the petitioner why action under Section 32(1)(b) shall not be taken and to submit objection if any within a period of seven days from the receipt of the said notice and for other related reliefs.

2. Brief facts for the disposal of the writ petition are thus:-

Petitioner is the present managing committee of Edappon Ksheerolpadaka Sahakarana Sangham Ltd.No.A.30(D) APCOS. The president of the committee has been continuing in that capacity for the past more than 20 years. It is also contended that when the president came to the helm of the society, society was

running on a loss of Rs.7,00,000/- as a result of mismanagement and misappropriation by the previous secretary.

3. Society was served with Ext.P2 order issued by the respondent stating that on inspection by the Quality Control Officer it can be revealed that an amount of Rs.2,80,379/- is due from the president and that likewise an amount of Rs.2,50,362/- is due from the secretary.

4. It is the contention of the petitioner that on receipt of notice certain amounts were realised from the president as well as the secretary. Later, society was served with notice Ext.P4 appointing the Enquiry Officer to conduct and enquire under Section 68(1) of the Kerala Co-operative Societies Act, based on the report of the Quality Control Officer dated 3.11.2011.

5. Ultimately, it culminated in Ext.P9 notice, which is a subject matter in W.P.(C) 4350/2014 pending before this Court. Any how, even though notice as per Ext.P9

was issued, no action was initiated and the same was dismissed later as infructuous. Now, petitioner is served with Ext.P10 notice, directing the petitioner to show cause why action under Section 32(1)(b) shall not be taken against the petitioner. In terms of Ext.P10 petitioner has submitted Ext.P11 detailed objection, which is pending consideration before the respondent. Apprehending supersession, without considering the objection, petitioner has filed this writ petition before this Court.

6. Heard learned counsel for the petitioner and learned Government Pleader.

7. Learned counsel for the petitioner has reiterated the contentions raised in the writ petition. That apart it is contended that, petitioner is apprehending high handed acts on the part of the respondent on the basis of Ext.P10 notice without taking into consideration Ext.P11 objection filed by the petitioner.

8. The crux of the contention advanced by the learned counsel for the petitioner is that, if at all it is assumed that the president of the society has committed any fault or lapses, the same is not a contributory factor for supersession of the committee as provided under Section 32 (1)(b) of the Co-operative Societies Act.

9. Learned Government Pleader on the other hand contended that, there are serious lapses on the part of the president as well as the secretary of the society enabling the respondent to proceed under Section 32.

10. Taking into account the rival submissions put forth and documents on record I am satisfied that since the petitioner has filed objection to Ext.P10 notice and the same is pending consideration before the respondent a direction can be issued to the respondent to take a decision on the same objectively and in accordance with law, within a time frame.

11. Accordingly, I direct the respondent to consider

Ext.P11 objection filed by the petitioner and take a decision in accordance with law, after objectively assessing the situation and taking into account provisions of Section 32 of the Kerala Co-operative Societies Act within a period of three weeks from the date of receipt of a copy of this judgment. In the meanwhile, there will be a direction to the respondent not to proceed in any manner or interfere with the functioning of the petitioner committee.

12. Needless to say, the decision taken by the respondent shall be communicated to the petitioner immediately thereafter.

Writ petition is disposed of accordingly.

Sd/-

SHAJI P. CHALY, JUDGE