

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

TUESDAY, THE 6TH DAY OF MARCH 2012/16TH PHALGUNA 1933

WP(C).No. 5565 of 2012 (U)

PETITIONER(S):

1. RAMACHANDRAN UNNITHAN,
PRESIDENT, PAVITHRESWARAM KSHEERA ULPATHAKA
CO-OPERATIVE SOCIETY LTD.NO.Q.61(D) KOTTARAKKARA,
VIKAS BHAVAN, PAVITHRESWARAM P.O.
2. SOMARAJAN,BOARD MEMBER,
PAVITHRESWARAM KSHEERA ULPATHAKA CO-OPERATIVE
SOCIETY LTD.NO.Q.61(D), KOTTARAKKARA,
SOJO NIVAS, PAVITHRESWARAM P.O.
3. SABU,BOARD MEMBER,
PAVITHRESWARAM KSHEERA ULPATHAKA CO-OPERATIVE
SOCIETY LTD.NO.Q.61(D), KOTTARAKKARA,
PULIMOOTTIL HOUSE, PAVITHRESWARAM P.O.
4. JALAJA,BOARD MEMBER,
PAVITHRESWARAM KSHEERA ULPATHAKA CO-OPERATIVE
SOCIETY LTD.NO.Q.61(D), KOTTARAKKARA,
AMBAZHAVELIL VEEDU, PAVITHRESWARAM P.O.
5. SAJAN, BOARD MEMBER,
PAVITHRESWARAM KSHEERA ULPATHAKA CO-OPERATIVE
SOCIETY LTD.NO.Q.61(D), KOTTARAKKARA,
ST.GREGORIOUS, PAVITHRESWARAM.P.O.

BY ADV. SRI.M.K.CHANDRA MOHANDAS

RESPONDENT(S):

1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF CO-OPERATIVE SOCIETIES,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.695 001.
2. THE DIRECTOR,
DAIRY DEVELOPMENT DEPARTMENT,
THIRUVANANTHAPURAM-695 001.

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3. DEPUTY DIRECTOR,
DEPARTMENT OF DAIRY DEVELOPMENT, DISTRICT OFFICE,
BEACH ROAD, KOLLAM-691 001.
4. DIARY EXTENTION OFFICER,
VETTIKKAVALA, BLOCK OFFICE, VETTIKKAVALA.691 538.
5. PAVITHRESWARAM KSHEERA ULPATHAKA CO-OPERATIVE
SOCIETY LTD.NO.Q.61(D),
REPRESENTED BY ITS SECRETARY.691 624.
6. BABUKUTTAN PILLAI,
MANGALASSERIYIL PUTHENVEEDU, EDAVATTOM,
KARUVELIL.P.O., EZHUKONE VIA, KOTTARAKKARA.691 505.

BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 06-03-2012, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

sts

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APPENDIX

PETITIONER'S EXHIBITS:

P1 COPY OF THE NOTICE ISSUED BY THE 3RD RESPONDENT TO THE PETITIONERS.

P2 COPY OF THE BONUS REGISTERS OF THE PETITIONERS.

RESPONDENT'S EXHIBITS:

NIL

/TRUE COPY/

P.A.TO.JUDGE

sts

P.N.RAVINDRAN,J.

W.P.(C) No.5565 of 2012

Dated this the 6th day of March, 2012

JUDGMENT

Ext.P1 show cause notice dated 27.2.2012 issued by the Deputy Director of Dairy Development calling upon the petitioners to show cause why they should not be disqualified under clause (j) of sub-rule (1) of rule 44 of the Kerala Co-operative Societies Rules, 1969 is under challenge in this writ petition wherein the petitioners has sought the following relief:

"i) Issue a writ of mandamus or appropriate writ, order or direction to quash Ext.P1 notice of the 3rd respondent to disqualify the petitioners from being members of the Director Board of the Society."

2. The main contention raised by the petitioners is that the time granted to file a reply to the show cause notice is too short. It is also contended that no purpose will be served by filing an explanation since the third respondent has stated clearly in the notice that he proposes to disqualify the petitioners.

3. The petitioners do not dispute the competence and authority of the Deputy Director of Dairy Development to issue the impugned notice. By the impugned notice, the petitioners

have been called upon to show cause why, they should not be disqualified for the reason that they are not rearing cows and buffaloes, thereby attracting the disqualification stipulated in bye-law 3.3 (b) (iii) of the bye-laws of the society. In other words, the petitioners are sought to be disqualified on the ground that they are not eligible to be enrolled as members of the society. The petitioners can, in my opinion, reply to the show cause notice by stating that they are rearing cattle and are delivering milk to the society. They can also produce materials to substantiate their contentions. Therefore, though the show cause notice may not be happily worded and could have been couched in better terms, I am of the opinion that the petitioners who have sought a writ of mandamus to quash a notice, cannot be said to be seriously prejudiced. That apart, from the order of disqualification, an appeal lies to the Government. Though the petitioners have contended that the time limit stipulated for submitting a reply to Ext.P1 show cause notice is too short, the petitioners have stated in ground 8 of the writ petition that a copy of Ext.P1 notice was received by them on 2.3.2012. Though it is stated that the period

of seven days will expire only on 8.3.2012 and even before the expiry of the period of seven days, the hearing is scheduled to be held on 7.3.2012, the petitioners could have instead of coming to this Court approached the third respondent, appraised him of the fact that the notice was served only on 2.3.2012, that the period of seven days will therefore expire only on 8.3.2012 and sought an adjournment of the hearing to 8.3.2012 or to any other date. In such circumstances, the mere fact that in the notice the date fixed for hearing was 7.3.2012 will not vitiate the notice. That apart, in the nature of the allegations it cannot be said that the period of time between 2.3.2012 and 7.3.2012 is too short a period and therefore, the petitioners cannot file a reply to the notice wherein the only allegation is that they are not rearing cattle. If as contended by the petitioners they are eligible to be enrolled as members of the society and to continue as its office bearers, nothing prevented them from putting forward the facts justifying their enrollment as members and continuance as office bearers before the third respondent. In the absence of any challenge to the competence of the third respondent to issue the

impugned notice, I am of the opinion that the writ petition is liable to be dismissed.

I accordingly hold that there is no merit in the writ petition. The writ petition fails and is dismissed.

Sd/-

**P.N.RAVINDRAN
JUDGE**

/TRUE COPY/

P.A. To JUDGE

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