

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

FRIDAY, THE 29<sup>TH</sup> DAY OF SEPTEMBER 2023 / 7TH ASWINA, 1945

WP(C) NO. 18739 OF 2022

**PETITIONER:**

THE RAMAPURAM REGIONAL SERVICE CO-OPERATIVE BANK  
LTD.NO.4111.



BY ADV P.C.SASIDHARAN

**RESPONDENTS:**

- 1 STATE OF KERALA  
REPRESENTED BY THE SECRETARY TO GOVERNMENT, CO-OPERATION  
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM 695001.
- 2 THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),  
OFFICE OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,  
KOTTAYAM 686002.
- 3 THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL),  
OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES,  
MEENACHIL, PALA, KOTTAYAM 686575.

BY ADV ADVOCATE GENERAL OFFICE KERALA

**OTHER PRESENT:**

SMT. MABLE.C. KURIAN. SR.GP.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
29.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SATHISH NINAN, J.

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W.P.(C) No.18739 of 2022

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Dated this the 29<sup>th</sup> day of September, 2023

J U D G M E N T

Aggrieved by the refusal to register the amendment to the bye-laws of the petitioner Society this writ petition has been filed. Ext.P5 order of rejection was affirmed in appeal under Ext.P9.

2. Registration of the amendment to the bye-laws was refused by the authorities for the reason that, the publication of the proposed amendment did not satisfy the requirements under Rule 9(ii) of the Co-operative Societies Rules and Circular No.25/2016 issued by the Registrar of Co-operative Societies.

3. I have heard Sri.P.C.Sasidharan, learned counsel for the petitioner and Smt.Mable C. Kurian, the learned Government Pleader.

4. As per Rule 9(ii) of the Rules, if the Society has more than 500 members, intimation of the proposed

amendment with the date, time, place and agenda of the General Body Meeting are to be published in two vernacular dailies having wide publication in the area of operation in addition to the publication at the other places as mentioned therein. Ext.P2 is the copy of the paper publication with regard to the proposed amendment. According to the respondents, the publication is defective for the reason that it contains only the proposed amendments and it does not contain the existing provisions of the bye-laws. Going by Rule 9(ii) and Circular No.25/2016, the publication should contain both the existing provisions as well as the proposed amendments.

5. According to the petitioner, the Rules and Circulars mandate publication only of the proposed amendment and not of the existing provisions of the bye-laws.

The relevant portion of Rule 9(ii) reads thus :-

**“9. Procedure Regarding Amendment of Bye-laws:—(1) xxxxx**

*(ii) No such resolution shall be valid in the case of a society having not more than five hundred members, unless intimation of the amendment proposed has been given to the members of the society either in person and their full signature in token of having received the same has been obtained, or by registered post or speed post or such courier services approved by the High Court of Kerala/Government of Kerala and in other cases, it shall be sufficient if the date, time, place and agenda of such General Body Meeting with details of amendment proposed are published in two vernacular dailies having wide circulation in the area of operation of the society, in the notice board of the society at the head office and branches of the society, .....*”

Circular No.25/2016 reads thus:-

“കേരള സഹകരണ സംഘങ്ങൾ ചട്ടങ്ങളിലെ ചട്ടം 9(ii) പ്രകാരം അഞ്ഞൂറോ അതിലധികമോ അംഗങ്ങളുള്ള ഒരു സംഘത്തിന്റെ/ബാങ്കിന്റെ നിർദ്ദിഷ്ട ബൈല ഭേദഗതിയുടെ വിശദാംശങ്ങൾ സംഘത്തിന്റെ അധികാരാതിർത്തിയിൽ പ്രചുര പ്രചാരമുള്ള രണ്ട് സ്വഭാഷാപത്രങ്ങളിൽ പരസ്യപ്പെടുത്തണമെന്ന് വ്യവസ്ഥ ചെയ്തിട്ടുണ്ട്. എന്നാൽ ചില സഹകരണ സംഘങ്ങൾ ഇപ്രകാരം നൽകുന്ന പത്ര

പുരസ്കൃതിൽ നിർദ്ദിഷ്ട ഭേദഗതിയുടെ സംക്ഷിപ്തം മാത്രം പ്രസിദ്ധീകരിക്കുന്നതായി ശ്രദ്ധയിൽപെട്ടിട്ടുണ്ട്. ഇത് നിയമാനുസൃതമല്ലാത്തതിനാൽ സഹകരണ ചട്ടം 9(ii) പ്രകാരം ബൈലാഭേദഗതിയ്ക്കായി നൽകുന്ന പത്രപരസ്കൃതിൽ നിർദ്ദിഷ്ട ബൈലാഭേദഗതി സംബന്ധിച്ച് വിശദവിവരങ്ങൾ ഉൾക്കൊള്ളിയ്ക്കേണ്ടതാണെന്ന് നിർദ്ദേശിക്കുന്നു.”

6. The learned Senior Government Pleader would contend that Rule 9(ii) makes a distinction with regard to publication in the case of Societies having less than 500 members and those having more than 500 members. In the case of the former, the Rule prescribes intimation of “the amendment proposed” whereas in the case of the latter, the rule prescribes publication of “details of amendment proposed”. There is distinction between the two; the words “details of amendment proposed” in the latter, intend publication of the existing provision of the bye-law also, it is contended.

7. I am unable to subscribe to the submissions of the learned Senior Government Pleader.

8. All that the Rule requires is, intimation of the proposed amendment to the members of the Society. In Societies where the number of members are less than 500, personal intimation is sufficient and where the number is more than 500 the intimation is permitted to be made by paper publication. The distinction is only with regard to the mode of intimation. There is no reason to make any difference with regard to the contents of the notice/intimation. In both the cases, the purpose is to intimate the proposed amendment to the members. There is no reasoning in the contention that, when the number of members is more than 500 the intimation should contain the existing provisions of the bye-law along with the proposed amendment.

9. Circular No.25/2016 relied on by the respondents does not suggest any different interpretation or intention. All that the Circular states is that, some of the Societies have been publishing only the crux

“സംക്ഷിപ്തം” of the proposed amendment, which is contrary to Rule 9(ii), and that the details of the proposed amendment are to be given in the publication. The details of the proposed amendment would only mean, the proposed amendments as such or in its entirety, and not a mere publication of the crux of the proposed amendment.

10. Therefore, on a proper understanding of Rule 9(ii) of the Rules and Circular No.25/2016, it could only be held that the intimation to the members with regard to the proposed amendment of the bye-laws of the Society, whether it be by personal service or by paper publication as the case may be, need only contain the proposed amendment in its entirety. Such intimation/publication need not contain the existing provision of the bye-law sought to be amended.

Accordingly, the writ petition is allowed. Exts.P5 and P9 orders are quashed. The second respondent is to

pass fresh orders on Ext.P4 application for registration of the amended bye-laws de hors the reason given in Exts.P5 and P9. Let orders be passed as expeditiously as possible and at any rate within a period of two months from the date of receipt of a copy of this judgment.

Sd/-  
**SATHISH NINAN**  
**JUDGE**

kns/-

//True Copy//

P.S. to Judge



**APPENDIX OF WP(C) 18739/2022**

PETITIONER EXHIBITS

- EXHIBIT P1 THE TRUE COPY OF THE RESOLUTION OF THE BOARD OF DIRECTORS OF THE SOCIETY DATED 12/12/2019.
- EXHIBIT P2 THE TRUE COPY OF THE NOTICE PUBLISHED IN THE DEPIKA DAILY DATED 13/12/2019.
- EXHIBIT P3 THE TRUE COPY OF THE RELEVANT PAGES OF RESOLUTION SO ADOPTED IN ITS MEETING HELD ON 28/12/2019.
- EXHIBIT P4 THE TRUE COPY OF THE COVERING LETTER 20/1/2020 FORWARDED TO THE JOINT REGISTRAR.
- EXHIBIT P5 THE TRUE COPY OF THE COMMUNICATION DATED 11/6/2020 ISSUED BY THE ASSISTANT REGISTRAR TO THE PETITIONER.
- EXHIBIT P6 THE TRUE COPY OF THE COMMUNICATION DATED 12/8/2020 OF THE JOINT REGISTRAR.
- EXHIBIT P7 THE TRUE COPY OF THE APPEAL MEMORANDUM DATED 15/9/2020.
- EXHIBIT P8 THE TRUE COPY OF THE CIRCULAR NO.25/2016 DATED 1/8/2016.
- EXHIBIT P9 THE TRUE COPY OF THE ORDER G.O NO. 368/2022/CO-OP. DATED 31/5/2022 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P10 THE TRUE COPY OF THE PAPER PUBLICATION IN RESPECT OF NEELUR SERVICE CO-OPERATIVE BANK.
- EXHIBIT P11 TRUE COPY OF THE HEARING NOTE OF SRI. GOPAKUMAR P.K. ALONG WITH THE COVERING LETTER DATED 21/07/2022 OF THE GOVERNMENT

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