

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

SATURDAY, THE 30TH DAY OF SEPTEMBER 2023 / 8TH ASWINA, 1945WP(C) NO. 31797 OF 2023PETITIONER:

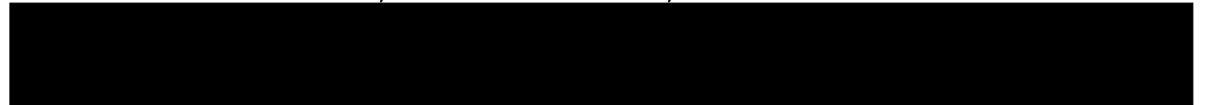
RAJAN.K.

BY ADVS.
B.S.SWATHI KUMAR
HARISANKAR N UNNIRESPONDENTS:

- 1 THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES (G)
JAWAHAR SAHAKARANA BHAVAN, JAGATHY, THIRUVANANTHAPURAM, PIN -
695014
- 2 THE CENTRAL GOVERNMENT EMPLOYEES
& WORKERS CO-OPERATIVE CREDIT SOCIETY LTD.NO. T. 1413, USRA-
17, UDARASIROMANY ROAD, VAZHUTHACAUD, THIRUVANANTHAPURAM
REPRESENTED BY ITS PRESIDENT, PIN - 695010

*** ADDL. RESPONDENT NO.3**

ADDL. R3 AMBAREESH NAIR R.S., AGED 32 YEARS,

*** [ADDL. RESPONDENT NO.3 IS IMPLEADED AS PER ORDERS OF THIS COURT DATED 29.09.2023 IN I.A. NO.1/2023].**BY ADVS.
SMT.SHEEJA C.S., SR. GOVT. PLEADER
T.P.PRADEEP
P.K.SATHEES KUMAR
MINIKUMARY M.V.
R.K.PRASANATH
JIJO JOSEPHTHIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30.09.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SATHISH NINAN, J.

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W.P.(C) No.31797 of 2023

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Dated this the 30th day of September, 2023

J U D G M E N T

Order under Rule 16 (4) of the Co-operative Societies Rules, 1969, removing the petitioner from the membership of the second respondent Society, is under challenge in this writ petition.

2. As per the bye-laws of the Society, any employee of a Central Government establishment situated within Trivandrum District, who has completed one year continuous service, is entitled to be a member of the Society. On satisfaction of the condition as above, the petitioner acquired membership in the Society. Later, the petitioner was transferred to Kochi. The additional third respondent moved the first respondent - Joint Registrar, for removal of the petitioner from the membership contending that, since the petitioner is not working within the area of operation of the Society viz.

Trivandrum District, he has lost his eligibility for membership.

3. I have heard Sri.Swathi Kumar B.S., learned counsel for the petitioner, Sri.T.P.Pradeep, the learned counsel for the third respondent, and Smt.Sheeja C.S., the learned Senior Government Pleader.

4. The fact that the petitioner is presently employed beyond Trivandrum District, the area of operation of the Society, is not in dispute.

5. The contention of the petitioner is that, the bye-law of the Society specifically prescribe the conditions under which a person ceases to be a member. Transfer and shifting of residence beyond the area of operation of the Society is not a ground mentioned therein for cessation of membership. Once membership has been acquired, the transfer of the member to any place beyond the area of operation of the Society does not result in losing of membership, it is contended.

6. The bye-laws does not prescribe that membership ceases if a member is transferred beyond the area of operation of the Society. Clause 11 of the bye-laws reads thus:-

“11. A person ceases to be a member(i) on death; (ii) when his resignation is accepted by the Managing Committee; (iii) on expulsion (iv) when he retires from service.

A past member shall be liable for the debts due by the society on completion of repayments of the existing liability.”

However, for reasons given hereunder, I am unable to uphold the contention of the petitioner that the transfer and consequential employment of a member beyond the area of operation of the Society does not result in cessation of membership.

7. Rule 16 stipulates the conditions to be complied with by a person for admission as a member. Rule (1)(c) requires fulfillment of the conditions in the Act, Rules, and bye-laws of the Society. In the case at hand,

the bye-laws imposes two conditions for eligibility for membership viz. (i) he must be an employee in a Central Government establishment within the Trivandrum District and (ii) he has completed one year continuous service. The above is the eligibility criteria for membership. The Society is formed to cater the needs of the employees within its area of operation - Trivandrum District. When a member is transferred beyond the territorial jurisdiction of the Society, he ceases to satisfy the eligibility criteria to be a member that is, he no more fulfills the requirement in the bye-law to be a member of the Society.

8. In terms of Rule 16(3) and (4), when a member becomes ineligible for continuance of membership, he is liable to be removed by the Managing Committee of the Society or by the Registrar. The provisions read thus:

16. Conditions to be complied with for admission for membership.—(1) xxxxx

(2) xxxxx

(3) *Where a person already admitted to membership is seen to have been ineligible for membership at the time he was so admitted as a member or if he subsequently becomes ineligible for membership the Committee of the Society may remove the person from membership after giving him an opportunity for making his representation if any, and the person concerned shall thereupon cease to be a member of the society.*

(4) *Where a member of a society becomes ineligible to continue as such, the Registrar may of his own motion or on a representation made to him by any member of the society or by the financing Bank, by an order in writing declare that he has ceased to be a member of the society from the date of his order. The Registrar shall give such person an opportunity to state his objection, if any, to the proposed action and if the person wishes to be heard, he shall be given an opportunity to be heard before passing an order as aforesaid.*

That when the conditions envisaged in Rule 16(1) is violated, such member is liable to be removed under Rule 16(3), has been held by Division Bench of this Court in

Part Time Administrator Adat Farmers Service Co-operative Bank Ltd.

No.R 689 and Another v. Vipin K. Hari (ILR 2023 (1) KER 121).

9. The petitioner, having lost the eligibility criteria to be a member, he becomes ineligible to continue as a member. The Committee having failed to take steps for removal from membership, it was within the domain of the Registrar to act on the complaint of the third respondent and to have initiated steps for removal of the petitioner from the membership. The action of the first respondent has due sanction of law. As held above, the petitioner being presently working beyond the area of operation of the Society, has lost the eligibility criteria to be a member and he was rightly removed from the membership.

10. As regards the contention of the petitioner that the bye-laws of the Society does not contemplate

for cessation of membership on a member being transferred beyond the area of operation of the Society, it is to be noticed that, what Clause-11 of the bye-law provides for is, cessation of membership on death, resignation, expulsion and retirement. Such cessation is automatic and would not generally require any further declaration. However, when a member loses his eligibility criteria mandated under the bye-laws for membership, it is a case which falls within the Rule 16(3) and (4) of the Rules where a member becomes ineligible for membership and requires a declaration or an order of removal from membership. Such member is liable to be removed from the membership. Therefore, the non-mentioning of such a contingency in Clause-11 of the bye-laws is of no consequence.

The order of the first respondent removing the petitioner from membership is in accordance with law and warrants no interference. Writ petition fails and is dismissed.

Sd/-
SATHISH NINAN
JUDGE

kns/-

//True Copy//

P.S. to Judge

APPENDIX OF WP(C) 31797/2023

PETITIONER EXHIBITS

- Exhibit P1 TRUE COPY OF THE RELEVANT PORTION OF THE BYE-LAW OF THE 2ND RESPONDENT.
- Exhibit P2 TRUE COPY OF THE NOTICE NO. C.S. 8437/2022 DATED 25-7-2023 ISSUED BY THE 1ST RESPONDENT.
- Exhibit P3 TRUE COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 5-8-2023
- Exhibit P4 TRUE COPY OF THE EXPLANATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 19-8-2023
- Exhibit P5 TRUE COPY OF THE NOTICE NO. C.S. 8437/2022 DATED 8-8-2023 ISSUED BY THE 1ST RESPONDENT.
- Exhibit P6 TRUE COPY OF THE JUDGMENT IN W.P.(C)NO. 28662/2023 DATED 5-9-2023
- Exhibit P7 TRUE COPY OF THE ORDER NO. C.S.NO. 8437/2022 DATED 21-9-2023 ISSUED BY THE 1ST RESPONDENT.
