(1997) 09 KL CK 0022

In the High Court Of Kerala

Case No : C.P. No. 15064 of 1997

K.M. Lukman APPELLANT

Vs

Dy. Registrar of Co-op. Societies RESPONDENT

Date of Decision : 03-09-1997

Acts Referred:
Kerala Co-operative Societies Act, 1969 — Section 2(tt)

Citation : (1998) 1 KLJ 50

Hon'ble Judges : K.A. Abdul Gafoor, J

Bench : Single Bench

Advocate : K.G. Anil Babu, for the Appellant; K. Balakrishnan and K.K. Ravindranath, for the Respondent

Final Decision : Dismissed

Judgement

K.A. Abdul Gafoor, J.—The petitioner is a delegate of Kadungalloor Service Co-operative Bank Limited No. 863 to the second respondent. The Ernakulam District Co-operative Bank, representing his society. The petitioner can exercise a vote on behalf of his society which is a voter. He is also a candidate for election to the Managing Committee of the second respondent society. He has approached this court seeking a direction to the first respondent, who is, also the Returning Officer to the election to include all the names of the 25 Primary Co-operative Societies mentioned in Ext.P4, in the final voters list and allow them to participate in the election process including the voting in the election scheduled on 21.9.1997. In other words, he submits that all the primary cooperative societies which were members of the Central Bank before the promulgation of Ordinances 8 of 1997 and 12 of 1997 and whose principal object is to raise funds to be lent to its members including nominal or associate members are entitled to participate in the election process. The Ordinance 8 of 1997 had lapsed and in its place, Ordinance 12 of 1997 was promulgated. So, we are concerned only with the latter which is in pari materia with ordinance 8 of 1997.

2. The basis for the contention of the petitioner is clause 3(iii) of the said

Ordinance introducing amendment to the definition section in the Kerala Co-operative Societies Act, 1969. By reason of this amendment, the District Co-operative Bank and Primary Agricultural Credit Society and Urban Cooperative Bank are defined. The definition of District Co-operative Bank is as follows:-

"District Co-operative Bank" means a central society having jurisdiction over one revenue district and having as its members Primary Agricultural Credit Societies including Farmers'' Service Co-operative Banks and Urban Co-operative Banks, and the principal object of which is to raise funds to be lent to its members, including nominal or associate members.

The petitioners'' contention is that all the Primary Agricultural Societies including Farmers'' Service Co-operative Banks and Urban Co-operative Banks having principal object to raise funds'' to be lent to its members, including nominal or associate members'' shall be entitled to be members of District Bank and therefore, entitled to be included in the voters list and to take part in the election process. This is based on the last clause in the said definition after the last ''and''. This is because of a misleading of the definition as if the last clause concerning the principal object is with reference to the constituent members of District Co-operative Bank. A reading of said clause will make it clear that the last clause is in conjunction with the provision regarding the constitution of the District Co-operative Bank. In other words, the said definition indicates that the District Co-operative Bank is one having as its members Primary Agricultural Credit Societies, Farmers'' Service Cooperative Banks and Urban Co-operative Bank and the principal object of which is to raise the funds to lent its members. This principal object mentioned is the object of the District Co-operative Bank and not the object of the constituent societies or banks.

3. This position is made more clear by the definition of Primary Agricultural Credit Society and Urban Co-operative Bank introduced as per clause 3 (iii) and clause 3(iv) of the Ordinance. It is sufficient to quote the definition of Primary Agricultural Co-operative Society alone, which reads as follows:-

"Primary Agricultural Credit Society" means a Service Co-operative society, a Service Co-operative Bank, a Farmers'' Service Co-operative Bank and a Rural Bank, the principal object of which is to undertake agricultural credit activities.

The object for which the Primary Agricultural Credit Society which includes a Service Co-operative Bank or Service Co-operative Society or a Farmers'' Service Co-operative Bank or Rural Bank is constituted is specifically dealt with there. The object for all these types of societies or banks which is commonly described by the definition as the Primary Agricultural Credit Society is that it shall be undertaking agricultural credit activities. Therefore, the members of the District Co-operative Bank namely, the Primary Agricultural Credit Society and Farmers'' Service Co-operative Bank shall be having the object to undertake agricultural credit activities. In other words, any primary society which does not have the object of undertaking agricultural credit activities cannot become the members of the District Co-operative Bank in the category of Primary Agricultural Credit Society. The only non Agricultural society which can become a member of the District Co-operative Bank is the Urban Co-operative Bank as defined in clause 3(iv) of the Ordinance.

4. As seen from Ext.P4, all the societies mentioned therein are either Housing Societies or Vanitha Co-operative Societies and such other Societies which do not come within the definition of Primary Agricultural Credit Society or Urban Co-operative Bank as defined in section 2(oa) and section 2(tt) of the Kerala Co-operative Societies Act, 1969, as introduced by the said Ordinance.

5. Therefore, the petitioner cannot, on the basis of this provisions seek a direction to include the 25 co-operative societies mentioned in Ext.P4.

6. It is further contended that the voters'' list is not prepared and published in compliance with the rules 35(3)(b) of the Kerala Co-op. Societies Rules in so far as that does not contain the necessary specifications for identifying the voters. As already mentioned above, the members of the District Co-operative Bank are either the primary agricultural co-operative society or Urban Cooperative Bank as defined in the respective provision introduced by the said Ordinance. Such societies can be identified only by their numbers and addresses as per bye-laws. Ext.P2 is the preliminary list. A glance through the said list makes it clear that the societies are identified by its numbers and addresses. Therefore, that contention also do not hold good. It is further contended that non agricultural bank other than urban co-operative banks are also included in the final voters list. If such members are included in the final voters list, that is really a ground for the petitioner to take up in an election petition especially when the definition clauses as examined above do not enable the Returning Officer to include any Primary Agricultural Credit Society which does not undertake agricultural credit activities, to be included in the voters list. In the above circumstances, the original petition fails. Dismissed. No costs.