
(2015) 03 KL CK 0086

In the High Court Of Kerala

Case No : R.P. No. 562 of 2013 in W.P. (C) 12693/2013

Oachira Service Co-operative Bank Ltd.

APPELLANT

Vs

T.K. Soman and Others

RESPONDENT

Date of Decision : 11-03-2015

Acts Referred:

Citation : (2015) 03 KL CK 0086

Hon'ble Judges : K. Surendra Mohan, J.

Bench : Single Bench

**Advocate : P.C. Sasidharan, for the Appellant; D. Somasundaram, Spl.
Government Pleader, Advocates for the Respondent**

Final Decision : Dismissed

Judgement

K. Surendra Mohan, J.—The fifth respondent in WPC 12693/2013 has filed this review petition. The review petitioner is a co-operative society registered under the Kerala Co-operative Societies Act, 1969 and the rules thereunder. The writ petition was filed by respondents 1 and 2 alleging that the fifth respondent had indiscriminately granted membership to a large number of persons, in violation of the provisions of Rule 16 of the Kerala Co-operative Societies Rules, 1969 (the "Rules" for short). Though they had sought for the details of the persons who were so enrolled, they were not granted the same. They were also denied access to any information relating to the newly enrolled members. Therefore, they had submitted Exts.P1 to P6 representations in the writ petition to respondents 4 and 5 herein. Since no orders were passed on the said representations by the said authorities, they had sought for the issue of appropriate directions for the consideration of the said representations. Since the complaint of respondents 1 and 2 were pending consideration of respondents 4 and 5, the writ petition was disposed of at the admission stage itself, without issuing notice to the review petitioner. The operative portion of the judgment is as follows:--

"In view of the above, this writ petition is disposed of directing the 3rd respondent to consider Exts.P1 and P6 representations in accordance with law

and to pass appropriate orders thereon, as expeditiously as possible and at any rate within a period of two months of the date of receipt of a copy of this judgment." 2. According to the review petitioner, the power to consider complaints regarding the eligibility of newly elected members is with the Managing Committee. Instead of approaching the Managing Committee, respondents 1 and 2 had submitted their representations to respondents 4 and 5 herein. Had the complaints been made to the Managing Committee they would have been considered by the Managing Committee under Rule 16(4) of the Rules. Since the term of the Managing Committee was expiring, an election had been scheduled to be held on 21.7.2013. It is only to prevent the election from being held on the said date that respondents 1 and 2 had filed the writ petition. The judgment having been rendered without issuing notice to the review petitioner, the above facts could not be brought to the notice of this court. For the above reasons, it is contended that the judgment requires to be reviewed and set aside. It is also contended that, as per Annexure A1 judgment, a similar writ petition had been disposed of directing the elected committee to decide the question.

3. According to Adv. P.C. Sasidharan who appears for the petitioner Rule 16(3) deals with a situation where a person already admitted to the membership of a co-operative society is seen to have been ineligible for membership at the time he was so admitted. In such a case and also in a case where a person subsequently becomes ineligible for membership it is the committee of the society that has the power to remove the person from membership. The power of the Registrar of cooperative societies under Rule 16(4) applies to a different situation where a member of the society becomes ineligible to continue as a member. Therefore, it is contended that the representations directed to be considered by this Court were actually not maintainable before the Registrar. For the above reason, it is contended that this court has directed the Registrar to exercise a power that is not vested in the said authority.

4. The learned Special Govt. Pleader Shri. D. Somasundaram on the other hand points out that, this Court has not considered the complaints made by respondents 1 and 2, nor has this court gone into the question as to whether the Registrar has the power to consider the complaint that has been preferred. This Court has only directed the representations of respondents 1 and 2 to be considered. The said direction does not require to be reviewed, as sought for by the petitioner. Dr. K.P. Pradeep who appears for respondents 1 and 2 also supports the submissions of the learned Special Govt. Pleader. According to the counsel Rule 16(2) enumerates the various eligibility criteria that are to be satisfied by any prospective member. Ext.P1 in the writ petition is a complaint made to the Joint Registrar on 26.4.2013. As per Ext.P2 what has been sought, is a copy of the addresses of the members. Ext.P4 is another request for copy of records. Exts.P5 and P6 are representations seeking permission to verify the records. Since Rule 33(4) entitles any member of the society to inspect the list of members in the society free of cost, respondents 1 and 2 were entitled to seek

permission to inspect the records. However, the said request was denied. That was the reason why the representations were preferred to respondents 4 and 5.

5. Heard. It is no doubt true that sub-rules (3) and (4) of Rule 16 apply to different situations. It is also worth noticing that Rule 33(4) confers on every member a right to inspect the list of members, which is alleged to have been violated by the review petitioner. In the writ petition respondents 1 and 2 had sought for only a limited relief of directing respondents 4 and 5 to consider their representations. Since the learned Govt. Pleader had no objection to such a direction being issued, without entering into the merits of any of the contentions raised in the writ petition, I had directed the representations to be considered and finally disposed of within a period of two months. If the said representations were not maintainable before the said authorities, the petitioner could have very well raised such an objection before the said authority. It is true that the direction was issued without notice to the petitioner. However, no direction to the prejudice of the petitioner has been issued by the judgment sought to be reviewed. The petitioner is free to raise all objections before the authority concerned. No error apparent on the face of the record or other sufficient reason justifying a review of the judgment has been brought to my notice. The entire exercise of considering the representations have been directed to be completed within a period of two months. Therefore chances of protracting the proceedings are also not there.

6. For the above reason I do not find any grounds to review the judgment dated 21.5.2013 in WPC 12693/2013, as sought for by the review petitioner. The review petition is therefore dismissed.