
(2008) 04 KL CK 0034

In the High Court Of Kerala

Case No : Writ Petition (C) No. 11593 of 2008

Thevan Ayyappan

APPELLANT

Vs

Kottappady East Service Co-op. Bank Ltd.

RESPONDENT

Date of Decision : 04-04-2008

Acts Referred:

Citation : (2008) 2 KarLJ 688 : (2008) 2 KLJ 688

Hon'ble Judges : Thottathil B. Radhakrishnan, J

Bench : Single Bench

Advocate : P.V. Baby and R. Kiran, for the Appellant; Anu Sivaraman, GP, for the Respondent

Final Decision : Dismissed

Judgement

Thottathil B. Radhakrishnan, J.—Petitioners are members of the first respondent society. According to them, the committee that was in office lost quorum on 27-3-2007 and the society came to be managed by an administrative committee which decided to conduct election on 20-4-2008. It is the allegation of the petitioners that the committee that lost quorum on 27-3-2007 had, while in office, decided to admit 650 persons as members, however that, no amount towards share value was remitted by those persons until that committee ceased to be in office on 27-3-2007. This writ petition is filed challenging the inclusion of those persons in the voters' list as members eligible to vote.

2. A reading of Sections 16, 18, and 19 of the Kerala Co-operative Societies Act, 1969 would show that membership depends upon the decision of a committee to admit a person as a member of the society. Such membership does not depend upon payments to the society in respect of membership. The use of the words "applicant" and "person" in Section 16 contrasted with the use of the word "member" in Section 19, easily leads to this conclusion. Rule 20 of the Kerala Co-operative Societies Rules, 1969 prescribes the payment to acquire the rights of a member and Section 19 of the Act inhibits exercise of rights of a member unless he had made such payments in respect of membership, as may be prescribed by

the rules or the bye-laws. Rule 28 imposes restriction that no member of a society shall be eligible to vote unless he acquires the number of shares for membership, as may be provided in the bye-laws of the society, prior to the date of the meeting fixed for any election to the committee.

3. Having regard to the aforesaid position of law, the question whether the 650 persons mentioned of in the writ petition were entitled to vote in the election in question is a mixed question of law and fact and it is not advisable to adjudicate on the same in writ jurisdiction, that too, in a manner interfering with the conduct of election.

4. For the aforesaid reasons, this writ petition is dismissed preserving the right, if any, of the petitioners to raise all questions in any election dispute in terms of the Kerala Cooperative Societies Act and Rules before the competent authority, if so advised.