

(2008) 09 KL CK 0068

In the High Court Of Kerala

Case No : Writ Petition (C) No's. 3170 and 20128 of 2008

Thiruvalla East Co-operative Bank Ltd.

APPELLANT

Vs

Secretary, Co-operative Service Examination Board and
Another

RESPONDENT

Date of Decision : 16-09-2008

Acts Referred:

Citation : (2008) 09 KL CK 0068

Hon'ble Judges : Thottathil B. Radhakrishnan, J

Bench : Single Bench

Advocate : P. Ravindran, Anil Sivaraman, Harikrishnan Ravindran, V.G. Arun and T.R. Harikumar, for the Appellant; K.C. Santhosh Kumar, Government Pleader and P.U. Shylajan, S.C. for Co-operative Service Exam Board, for the Respondent

Final Decision : Allowed

Judgement

Thottathil B. Radhakrishnan, J.—The Co-operative Service Examination Board constituted u/s 80B of the Kerala Co-operative Societies Act, 1969, hereinafter referred to as the "Act", conducted a written test on 9-9-2007 for selection of Junior Clerks on the request of the Co-operative Bank, which has filed WP(C) No. 3170/2008. Petitioner in WP(C) 20128/2008 is one among the candidates enlisted by the Board, to be interviewed by the committee of the bank. The list of the candidates who were successful in the examination was forwarded by the Board to the bank on 29-11-2007. Before that, the committee of the bank was superseded on 14-9-2007. That order of supersession stands stayed by this Court. Since a period of two months had elapsed after the list was forwarded by the Board to the bank, it requested the Board to enlarge the time to conduct the interview. The Board replied in the negative in view of the provisions of Rule 182(4)(v) of the Kerala Co-operative Societies Rules, 1969, hereinafter referred to as the "Rules". The bank has, therefore, challenged that decision of the Board and in that context, has sought a declaration that Rule 182(4)(v), to the extent it provides a period of two months, is only directory and not mandatory.

2. It is beyond dispute that it is the committee of the Co-operative Bank, which has to interview the candidates included in the list prepared and forwarded to it by the Board. The issue in hand is whether Rule 182(4)(v) contains any prescription of an indefeasible time-limit, beyond which no interview could be held.

3. Rule 182(4)(v), as it stood before the amendment as per SRO 1185/2003, did not contain any prescription as to time. That clause as it now stands, reads as follows:

182. Classification u/s 80(1).-(4) In respect of recruitment to societies covered by Section 80B of the Act, the following procedure shall be followed:

(v) On receipt of the list from the Examination Board, the committee shall conduct interview of the candidates within two months from the date of such receipt and return the list to the Examination Board noting the marks secured by each candidates, in the interview within a period of two weeks.

(The portion inserted as per SRO 1185/2003 is underlined for emphasis.)

4. Here, the object sought to be achieved by the amendment incorporated as per SRO 1185/2003 into Clause (v) of Sub-rule 4 of Rule 182 needs to be understood. The said amendment was intended to ensure that committees of societies do not sleep over the list of candidates forwarded by the Board or cause inordinate delay in completing the selection process. This mechanism would also have, as its object, the prime requirement, to exclude any placid situation which may generate favouritism, nepotism and corruption. Various time-limits fixed in the different clauses of Rule 182(4) are aimed at expediting the process of selection and to exclude lethargy in the matter. Those prescriptions of time-limits cannot be read in isolation, to treat such prescriptions as fatal to the existence of the list. Any such interpretation would be contextually incongruous with the scheme of Rule 182. If such a construction and interpretation is accepted, the result of the written examination conducted by a statutory body, namely, the Board, can be easily thwarted by the committee of a society by not conducting the interview within the prescribed time. The result of the interview has to be sent back to the Board and it is for the Board to bring out the consolidated list in terms of Rule 182(4)(vi) and the societies have to make appointments in terms of Clauses (vii) and (viii) of that Rule. Therefore, the selection process cannot be stultified and it cannot be contended that no interview can be conducted, in any case, beyond the period of two months of the receipt of the list from the Board; while the committee of a society which fails, without any exceptionally justifiable cause, to conduct interview within the time stated in that clause, could be made answerable for non-compliance of that provision. This is the purposive manner in which Rule 182(4)(v) has to be construed to give effect to the objects sought to be achieved by that clause. While the said Rule and the time-limit fixed therein ought to be applied diligently; exceptionally exceptional situations could be a ground on which the conduct of interview beyond the period of two months could

be justified. Added to this, it needs to be noticed with specificity, that the Act and the Rules do not provide for invalidation of the list made by the Board, merely on the ground that the committee of a society has not conducted the interview within the time-limit fixed in Rule 182(4)(v).

5. Going by the facts of the case in hand, the committee that was in office while the test was conducted was superseded and such supersession was stayed by this Court on 20-9-2007 and it continues to be so. On facts, the case in hand is a predominantly fit one where Rule 182(4)(v) of the Rules, as interpreted above, has to be applied in favour of the bank being permitted to conduct the interview, having regard to the materials produced by it along with W.P.(C) 3170/2008. The bona fides of the committee of the bank, in the matter, is abundantly established.

For the aforesaid reasons, these writ petitions are ordered directing that the Petitioner in W.P. (C) 3170/2008 shall have the interview conducted by its committee, in accordance with law, within an outer limit of 45 days from the date of receipt of a copy of this judgment and the Board shall recognise and act upon the list that may be forwarded by the bank within two weeks following the interview. The impugned decisions, contrary to what is stated above, are quashed.