
(2008) 08 KL CK 0011

In the High Court Of Kerala

Case No : Writ Petition (C) No. 25973 of 2008

Vinod Kumar K.P. and Others

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 29-08-2008

Acts Referred:

Citation : (2008) 3 KLJ 536

Hon'ble Judges : Thottathil B. Radhakrishnan, J

Bench : Single Bench

Advocate : M. Sasindran and Tojan J. Vathikulam, for the Appellant; Anu Sivaraman, Sr. GP and Alexander Thomas, SC, for the Respondent

Final Decision : Dismissed

Judgement

Thottathil B. Radhakrishnan, J.—Petitioners are employees of Primary Agricultural Credit Societies, hereinafter, "PAC societies, which are members of a District Co-operative Bank. They plead that they are eligible for being considered for recruitment under 50% quota reserved for appointment of such persons under Rule 187 of the Kerala Co-operative Societies Rules, 1969, hereinafter, the "Rules". They seek a direction that the benefit of that Rule be confined only to employees of the PAC societies and Urban Co-operative Banks, hereinafter, "UCBs", which are members of the apex/central society and a direction to the second respondent Kerala Public Service Commission not to permit the employees of co-operative societies which are neither PAC societies nor UCBs affiliated to a District Co-operative Bank as members, to participate in the selection process for the quota earmarked for employees of member societies.

2. The plea of the petitioners is based on the fact that as per the Kerala Co-operative Societies (Amendment) Ordinance, 2007, viz., Ordinance 62/07 promulgated by the Governor of Kerala, the definition of the term "District Co-operative Bank" in the Kerala Co-operative Societies Act, 1969, hereinafter, the "Act", stands amended. The said amendment was subject matter of a bunch of matters that led to the judgment in Philip v. State of Kerala 2008 (2) KLT 555, by

which, it was held that PAC societies and UCBs are the only societies which will be members of District Co-operative Banks. Accordingly, it is argued that the other societies are not member societies and hence, the employees of such societies are disentitled to be recruited with the aid of the reservation of vacancies in terms of Rule 187 of the Rules.

3. The net effect of Ordinance 62/07 is that the PAC Societies and UCBs became the only members in a District Co-operative Bank with share in assets and profits and with right to vote, while any Co-operative Society, which is not a PAC Society or a UCB may become a nominal or associate member of a District Co-operative Bank. Only PAC Societies and UCBs would have the entitlement to any share in the assets or profits and to be elected to the committee of the District Co-operative Bank. Section 18(2) of the Act provides that a nominal or associate member shall not have entitlement.

4. By the amendment as per Ordinances 62/07, "District Co-operative Bank; means "a central society having jurisdiction over one revenue district and having as its members PAC Societies and UCBs and the principal object of which is to raise funds to be lent to its members, including nominal or associate members". Section 18(1) of the Act provides that a society may admit any individual as a nominal or associate member. By Clause 4 of the Ordinance, two provisos are introduced to that Sub-section. First among them provides that a District Co-operative Bank may admit any Co-operative Society registered under the provisions of the Act, other than PAC Co-operative Society registered under the provisions of the Act, other than PAC Co-operative Societies and UCBs, functioning . within its area of operation as nominal or associate member. The second proviso, as inserted, provides further that the members of a District Co-operative Bank other than PAC Societies and UCBs, as on the date of commencement of the Ordinance, shall become nominal or associate members of such District Co-operative Banks at such commencement.

5. Rule 187 of the Rules reads as follows:

Vacancies in Apex Society or Central Societies - Notwithstanding anything contained in Rule 186, in appointments to apex societies or central societies, 50% of the vacancies shall be reserved to the employees of the member societies, of the respective apex society or central society as the case may be, having a minimum regular service of 3 years in any of the cadre and having the required qualification for the noticed posts in the apex society or central society.

The aforesaid is a rule of reservation in favour of the employees of the "member" societies.

6. The expression "member is defined in Clause 2(1) of the Act as follows:

Member means a person joining in the application for the registration of a cooperative society or a person admitted to membership after such registration in accordance with this Act, the rules and the bye-laws and includes a nominal or

associate member.

Thus, nominal and associate members are also members for the purpose of the Act and the Rules.

7. Section 2(m) of the Act defines "nominal or associate member" as follows:

nominal or associate member" means a member who possess only such privileges and rights of a member who is subject only to such liabilities of a member as may be specified in the bye-laws.

8. Rule 187 of the Rules read in the context of Section 2(ia) as amended by Ordinance. 62/07, Sections 2(1) and 2(m) conclusively show that nominal or associate members are also members coming within the scope of Rule 187 of the Rules. Therefore, notwithstanding Ordinance 62/07, the benefit of the reservation in terms of Rule 187 of the Rules is available to employees of all member societies of the respective apex or central society, including nominal and associate members.

9. Similar situation was considered and decided by the Division Bench of this Court, repelling similar contentions in Surendran v. Kerala Public Service Commission 2002 (1) KLT 673.

10. For the foregoing reasons, the writ petition fails. The same is accordingly dismissed.