

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

MONDAY, THE 25TH DAY OF SEPTEMBER 2023 / 3RD ASWINA, 1945

WP(C) NO. 29886 OF 2023

PETITIONER:

K. ANILKUMAR, AGED 59 YEARS, MEMBER NO.20130,
RAMAMANGALAM HOUSE, THONNIAMALA P.O, PATHANAMTHITTA,
PIN - 689668

BY ADVS.
P.N.MOHANAN
C.P.SABARI
AMRUTHA SURESH
GILROY ROZARIO
SUNITHA G.

RESPONDENTS:

- 1 THE STATE CO-OPERATIVE ELECTION COMMISSION,
REPRESENTED BY SECRETARY TO COMMISSION, 3RD FLOOR,
CO-BANK TOWERS, PALAYAM, VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM, PIN - 695033
- 2 ELECTORAL OFFICER TO THE PRIMARY CO-OPERATIVE
AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD NO. Q.
390, THE ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETIES (G), OFFICE OF THE ASSISTANT REGISTRAR OF
CO-OPERATIVE SOCIETIES (G), KOZHENCHERRY,
PATHANAMTHITTA, PIN - 689641
- 3 RETURNING OFFICER TO THE PRIMARY CO-OPERATIVE
AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD NO. Q.
390, THE OFFICE OF INSPECTOR OF CO-OPERATIVE
SOCIETIES (G), OFFICE OF THE ASSISTANT REGISTRAR OF
CO-OPERATIVE SOCIETIES (G), KOZHENCHERRY,
PATHANAMTHITTA, PIN - 689641
- 4 THE MANAGING COMMITTEE OF THE PRIMARY CO-OPERATIVE
AGRICULTURAL AND RURAL- DEVELOPMENT BANK LTD NO. Q.
390, PATHANAMTHITTA, REPRESENTED BY ITS PRESIDENT,
PIN - 689645

5 THE PRIMARY CO-OPERATIVE AGRICULTURAL AND RURAL
DEVELOPMENT BANK LTD NO. Q. 390, PATHANAMTHITTA-
689645, REPRESENTED BY ITS SECRETARY.

BY ADVS.

NISHA GEORGE

GEORGE POONTHOTTAM (SR.) (K/000570/1979)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
25.09.2023, ALONG WITH WP(C).30314/2023, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

MONDAY, THE 25TH DAY OF SEPTEMBER 2023 / 3RD ASWINA, 1945

WP(C) NO. 30314 OF 2023

PETITIONERS:

- 1 A. GOKULENDRAN, AGED 71 YEARS, MEMBER NO. 23287 VISHNU,
NANNUVAKKADU P.O., PATHANAMTHITTA, PIN - 689645
- 2 B. SHANUL HAMEED AGED 61 YEARS, MEMBER NO. 24532
THEKKEVEEDU (AL. AMEEN HOUSE) VETTIPURAM P.O.,
PATHANAMTHITTA, PIN - 689645
- 3 ABDULMANAF, AGED 46 YEARS, MEMBER NO. 23631,
AMMINIYAMMA VEEDU, PETTA P.O., PATHANAMTHITTA, PIN -
689645
- 4 VARGHEGE DANIEL, AGED 60 YEARS, MEMBER NO. 24601,
PARACKAL PUTHENVEEDU, VETTIPURAM P.O.,
PATHANAMTHITTA, PIN - 689645
- 5 K. BALAKRISHNAN NAIR, AGED 73 YEARS, MEMBER NO. 14534,
KOCHUMANNIL, MANJINIKARA, OMALLOOR, PIN - 689647
- 6 K. ANIL, AGED 59 YEARS, MEMBER NO. 18660,
CHARUVILAYIL PUTHEN VEEDU, THONNIAMALA P.O.,
PATHANAMTHITTA, PIN - 689668

BY ADVS.
P.N. MOHANAN
C.P. SABARI
AMRUTHA SURESH
GILROY ROZARIO
SUNITHA G.

RESPONDENTS:

- 1 THE STATE CO-OPERATIVE ELECTION COMMISSION,
REPRESENTED BY SECRETARY TO COMMISSION, 3RD FLOOR,
CO-BANK TOWERS, PALAYAM, VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM, PIN - 695033

- 2 ELECTORAL OFFICER TO THE PRIMARY CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD NO. Q. 390, THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), KOZHENCHERRY, PATHANAMTHITTA, PIN - 686941
- 3 RETURNING OFFICER TO THE PRIMARY CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD NO. Q. 390, THE OFFICE OF INSPECTOR OF CO-OPERATIVE SOCIETIES (G), OFFICE OF THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES (G), KOZHENCHERRY, PATHANAMTHITTA, PIN - 689641
- 4 THE MANAGING COMMITTEE OF THE PRIMARY CO-OPERATIVE AGRICULTURAL AND RURAL- DEVELOPMENT BANK LTD NO. Q. 390, PATHANAMTHITTA-689645, REPRESENTED BY ITS PRESIDENT.
- 5 THE PRIMARY CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD NO. Q. 390, PATHANAMTHITTA-689645, REPRESENTED BY ITS SECRETARY.
- 6 REGISTRAR OF CO-OPERATIVE SOCIETIES (G), OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES, JAWAHAR SAHAKARANA BHAVAN, POOJAPPURA, THIRUVANANTHAPURAM, PIN - 695012

BY ADVS.

Nisha George

GEORGE POONTHOTTAM (SR.) (K/000570/1979)

ANSHIN K.K(K/1249/2021)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25.09.2023, ALONG WITH WP(C).29886/2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SATHISH NINAN, J.

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W.P.(C) Nos.29886 & 30314 of 2023

= = = = =

Dated this the 25th day of September, 2023

J U D G M E N T

Read orders dated 12.09.2023 and 15.09.2023 in the respective writ petitions.

2. Respondents 4 and 5 seek for vacating of the interim orders.

3. The question involved in these writ petitions is with regard to the validity of condition No.23(1) of the bye-laws of the Society. The provision restricts the right to contest in the election to the Managing Committee, to members who have subsisting loans with a tenure of three years or more.

4. According to the petitioners, the said condition in the bye-law violates the explanation to Rule 35A(4) of the KCS Rules which provides that every 'A' class member shall be eligible to vote and contest in the election if he has subscribed to the minimum share value

as prescribed in the bye-laws. Any other restriction if imposed in this regard shall be declared as null and void.

5. The learned Senior Counsel Sri.George Poonthottam would on the other hand refer to Rule 44(1) (j) of the Rules and contend that it is only a disqualification brought in under the bye-law of the Society which is permissible.

6. Prima facie I find force in the contention of the petitioners. The matter needs to be considered elaborately. Tomorrow (26.09.2023) is the date for submission of nominations. If the petitioners are not permitted to contest the election it would result in irreparable injury.

7. Therefore, I do not find any reason to vacate the interim order passed on 12.09.2023 in W.P.(C) No.29886 of 2023 and the interim order passed on 15.09.2023 in W.P.(C) No.30314 of 2023.

WP(C) Nos.29886 & 30314 of 2023

-: 3 :-

The results of the election can be declared.
However, the same will be provisional and subject to
further orders in the writ petitions.

Sd/-
SATHISH NINAN
JUDGE

kns/-

//True Copy//

P.S. to Judge

APPENDIX OF WP(C) 30314/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE ELECTION NOTIFICATION HAVING NO. OI/1538/2023/E (2) S.C.E.C DATED 2.9.2023 PUBLISHED BY THE FIRST RESPONDENT ELECTION COMMISSION
Exhibit P2	TRUE COPY OF THE RELEVANT PAGE OF AMENDED AND APPROVED BYELAW CLAUSE NO. 23 (1) BELONGING TO THE FIFTH RESPONDENT SOCIETY
Exhibit P3	TRUE COPY OF THE JUDGMENT IN THE DECISION OF CHANDRAN K.M V. STATE CO-OPERATIVE ELECTION COMMISSIONER AND OTHERS REPORTED IN 2019 (4) KHC 308
Exhibit P4	TRUE COPY OF THE INTERIM ORDER DATED 12.09.2023 IN WPC NO. 29886/2023

APPENDIX OF WP(C) 29886/2023

PETITIONER EXHIBITS

Exhibit P1	TRUE COPY OF THE ELECTION NOTIFICATION HAVING NO. OI/1538/2023/E (2) S.C.E.C DATED 2.9.2023 PUBLISHED BY THE FIRST RESPONDENT ELECTION COMMISSION
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