

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE HARUN-UL-RASHID

FRIDAY, THE 12TH DAY OF OCTOBER 2012/20TH ASWINA 1934

WP(C).No. 23832 of 2012 (D)  
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PETITIONER:  
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MANIYAN NADAR, AGED 61 YEARS, S/O.KUNJUKRISHNAN NADAR,  
PUTHUVAl PUTHENVEEDU,  
VENKADAMBU P.O.

BY ADVS.SRI.R.T.PRADEEP  
SRI.P.BIJIMON

RESPONDENTS:  
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1. DIRECTOR, DAIRY DEVELOPMENT DEPARTMENT,  
THIRUVANANTHAPURAM 695 001.
2. DEPUTY DIRECTOR, DAIRY DEVELOPMENT DEPARTMENT,  
THIRUVANANTHAPURAM 695 001.
3. POOZHİKUNNU MILK PRODUCERS CO-OPPERATIVE SOCIETY LTD.  
NO.R31(D)APCOS, REPRESENTED BY ITS SECRETARY,  
POOZHİKUNNU 695 121.
4. ADMINISTRATOR/DAIRY EXTENSION OFFICER, PARASSALA,  
POOZHİKUNNU MILK PRODUCERS CO-OPERATIVE SOCIETY LTD.  
NO.R31(D)APCOS,POOZHİKUNNU 695 121.
5. RETURNING OFFICER/DAIRY FAFRM INSTRUCTOR, PARASSALA,  
POOZHİKUNNU MILK PRODUCERS CO-OPERATIVE SOCIETY LTD.  
NO.R31(D)APCOS, POOZHİKUNNU 695 121.

R1,R2, R3 & R4 BY SPECIAL GOVERNMENT PLEADER SRI D. SOMASUNDARAM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
12-10-2012, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P. (C) .No.23832/2012

APPENDIX

PETITIONER'S EXTS:

EXT.P1 TRUE COPY OF THE ORDER DATED 24/12/2009 BY WHICH THE ADMINISTRATIVE COMMITTEE WAS APPOINTED.

EXT.P2 TRUE COPY OF THE NOTIFICATION DATED 3/10/2012 OF ELECTION TO MANAGING COMMITTEE ISSUED BY 5TH RESPONDENT.

EXT.P3 TRUE COPY OF THE OBJECTION DATED 26/9/2012 TO WEED OUT THE INELIGIBLE MEMBERS.

EXT.P4 TRUE COPY OF THE ACKNOWLEDGEMENT CARD DATED 27/9/2012 REGARDING THE RECEIPT OF EXT.P3 BY 5TH RESPONDENT.

EXT.P5 TRUE COPY OF THE FINAL LIST OF VOTERS PUBLISHED BY THE 5TH RESPONDENT.

RESPONDENTS' EXTS: NIL.

TRUE COPY

P.S. TO JUDGE

**HARUN-UL-RASHID , J .**

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**W.P.(C).NO. 23832 OF 2012**  
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DATED THIS THE 12TH DAY OF OCTOBER, 2012

**JUDGMENT**

The writ petition is filed seeking the following reliefs:

i) To issue a writ of mandamus or any other appropriate writ, order or direction to the respondents to weed out the ineligible members who are having membership number from 881 to 916 with serial numbers 101 to 123 in Ext.P5 final voters list and to debar them from casting their votes in the election to the managing committee scheduled to be held on 31/10/2012; and

ii) To issue a writ of certiorari or any appropriate writ order or direction to quash Ext.P5 to the extent of ineligible members, who are having membership number from 881 to 916 with serial number 101 to 123 in Ext.P5 final voters list.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader.

3. The election to the managing committee is scheduled to

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be held on 31/10/2012. The main ground on which the writ petition is filed is on the basis of the allegations that the administrative committee enrolled 23 new members during its tenure, without authority and the returning officer included those 23 ineligible members, who are given membership during the tenure of administrative committee in the final voters list discarding the objection of the petitioner.

4. The learned Special Government Pleader on instructions submits that the Part Time Administrator had taken charge of the administration of the Society pursuant to the order dated 19/11/2009, that since then the Society is administered by either Part-Time Administrative Committee or Part Time Administrator, and that during the tenure of Part Time Administrators and Part Time Administrative Committees a total of 33 farmers were enrolled as members of the Dairy Co-operative Society.

5. The question as to whether the Administrator or Administrative Committee can enroll members was considered by

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this Court in the decision reported in *Karunakaran Pillai v. Venugopala Pillai* (2005 (3) KLT 348) in which it was held that the administrative committee cannot enroll members. It was also held that such enrollment is illegal as per the decisions of the Apex Court in *Joint Registrar of Co-operative Societies v. T.A.Kuttappan and others* (2006 (6) SCC 127) and *Shantharaj and another v. Nagaraj and others* (1997(6)SCC 37). In the light of the settled legal position, it is clear that the enrollment of 33 members is illegal and the newly enrolled members have no legal right to cast their votes in the ensuing election.

6. In view of the legal principles stated above, 33 members included in the final voters list are not entitled to cast their votes in the ensuing election.

Therefore, the writ petition is disposed of directing the 5<sup>th</sup> respondent not to include the 33 persons enrolled as members by the administrative committee in the final voters' list.

Sd/-  
HARUN-UL-RASHID,  
JUDGE.

kcv.