



2025:KER:31202

WA NO. 372 OF 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE AMIT RAWAL

&

THE HONOURABLE MR. JUSTICE K. V. JAYAKUMAR

THURSDAY, THE 10TH DAY OF APRIL 2025 / 20TH CHAITHRA, 1947

WA NO. 372 OF 2025

AGAINST THE ORDER/JUDGMENT DATED 07.01.2025 IN WP(C)
NO.24688 OF 2023 OF HIGH COURT OF KERALA

APPELLANT(S)/PETITIONER:

MANAGING COMMITTEE
PARAVUR CO-OPERATIVE BANK LTD NO.1759,
NORTH PARAVUR,
ERNAKULAM DISTRICT,
REPRESENTED BY ITS SECRETARY, PIN - 683513

BY ADV P.C.SASIDHARAN

RESPONDENT(S)/RESPONDENT:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF CO-OPERATION, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
(GENERAL), ERNAKULAM, PIN - 682025
- 3 ENQUIRY OFFICER/ALANGAD UNIT INSPECTOR
APPOINTED UNDER SECTION 66(2) OF THE COOPERATIVE
SOCIETIES ACT, OFFICE OF THE ASSISTANT REGISTRAR
(GENERAL) OF CO-OPERATIVE SOCIETIES NORTH
PARAVUR, ERNAKULAM, PIN - 683513
- 4 ADDL.R4: N. MOHANAN,
AGED 53 YEARS, S/O. NANDAKUMAR, (MEMBER SHIP NO.
11011 OF PARAVUR CO-OPERATIVE BANK NO. 1759),



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RESIDING AT JAYA BHAVAN,
VANIYAKKADU, MANNAM P.O, NORTH PARAVUR,
ERNAKULAM DISTRICT - 683 513.
(IS IMPEADED AS PER ORDER DATED 16/08/2023 IN
IA 1/23 IN WP(C)), PIN - 683513

BY ADVS.
TANOOSHA PAUL
AYSHA ABRAHAM(K/973/1993)

SR GP SRI T K VIPINDAS

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON
02.04.2025, THE COURT ON 10.04.2025 DELIVERED THE
FOLLOWING:



JUDGMENT

Amit Rawal, J.

1. The present writ appeal is directed against the judgment of the Single Bench in W.P.(C)No.24688 of 2023 challenging the order of the Government Ext.P2 dated 09.01.2023 whereby the revision petition preferred against the proceedings initiated under Section 68(i) of the Kerala Co-operative Societies Act against the members of the Managing Committee has been rejected on the ground of maintainability.

2. Succinctly, the facts in brief for adjudication of the intra court appeal are enumerated hereinbelow:

On the basis of complaint made by few people regarding benami land transactions and income tax evasion in Paravur Co-operative Society, registered under the provisions of the Co-operative Societies Act and Rules framed thereunder, the Registrar of Co-operative Societies ordered an investigation to be conducted by the Assistant Registrar (General) as enshrined under Section 66 of the Kerala Co-



operative Societies Act. The gamut of the investigation to be conducted under Section 66 was on the following two counts:

- (i) Total expenditure incurred by the bank on income tax auditing and filing fees.
- (ii) Disbursement of loan involving Smt.Shainaja Sudheer Kumar and Smt.Saras Mohanan.

3. Investigation under the aforementioned provisions of the Act was completed as per the report dated 09.01.2023, wherein it was noticed that investigation under Section 68(1) of the Kerala Co-operative Societies Act would be necessary to identify the individuals responsible for the financial loss and establish their liability.

4. As per the provisions of the aforementioned Act as well as the judgment of the Full Bench, all the investigations are conducted without calling the delinquent officer by examining the records of the society. Even the investigation as envisaged under Section 68(1) of the Kerala Co-operative Societies Act is to ascertain the truthfulness in the enquiry conducted under Section 66 of the Kerala Co-



operative Societies Act.

5. The competent Officer with authority empowered under Section 68(1) of the Act if finds that investigation conducted is found to be correct can initiate the stepson the basis of its own report as provided under Section 68(2) of the Act by issuing show cause notice to the erring officers who had been instrumental in causing the alleged loss. The persons who are involved in the aforementioned alleged misappropriation have a remedy to rebut and lead evidence in support of their respective stand.

6. Against the order under Section 66(2), petitioners preferred a revision by invoking the provisions of Section 87 of the Act vide Ext.P3 and the same has been dismissed vide Ext.P4 dated 19.06.2023 on the ground that revision petition is not maintainable as it is not a final verdict; much less, proceedings under Section 68(2) are yet to commence whereby the petitioners would have a remedy to lead evidence in support of their purported defence. The said order Ext.P4 was assailed before the Single Bench. Another



writ petition bearing No.21514 of 2021 filed by one of the members of the Paravur Co-operative Society seeking relief for taking action against the members of the society on the basis of the complaint was also tagged. Since action had already been culminated into one report of 09.01.2023 considering the fact that an enquiry under Section 68(1) of the Act had already been completed as per the report dated 10.08.2022, which is not though filed by the petitioners but came on record through Sri.Yeshwanth Shenoy, learned counsel representing the respondents, learned Single Bench noticing the fact that the procedure prescribed under Section 65, 66 and 68 of the Kerala Co-operative Societies Act is a complete code itself, the order passed in respect of an investigation as prescribed under Section 66 of the Act would not be assailable under Section 87, dismissed the writ petition and rendered other writ infructuous.

7. Sri.P.C.Sasidharan, learned counsel appearing on behalf of the petitioners submitted that on reading of plain and simple provisions of Section 87 of the



Act, any order passed by the competent authority is revisable. No harm and prejudice would be caused to the affected party in deciding the revision petition on merits.

8. On the other hand, Sri.Yeshwanth Shenoy, learned counsel appearing on behalf of the respondents submitted that remedy of revision would not be maintainable in view of the *ratio decidendi* culled out by the Full Bench of this Court in **Reji K.Joshy and Others v. Join Registrar of Co-operative Societies (General), Kollam and Others** [2022 (3) KHC 317]. The reference before the aforementioned Full Bench was as to whether an opportunity of being heard provided for in the Rule has an application to every action to be taken pursuant to the report of enquiry or instruction as provided under Rule 66 or Section 66 of the Act. Full Bench noticing the aforementioned provision has held that no opportunity of hearing is required, in the absence of any provision in the statute, for, compliance of principles *audi alteram partem* are already envisaged in Section 68(2) of the Act.



9. We have heard the learned counsel for the parties and appraised the paper book.

10. Sections 66 and 68 of the Kerala Co-operative Societies Act read as under:

66. Supervision and Inspection.- (1) The Registrar shall supervise or cause to be supervised by a person authorised by him by general or special order in writing in this behalf, the working of every society as frequently, as he may consider necessary. The supervision under this sub-section may include an inspection of the books of the society.

(2) The Registrar may, on his own motion, or on the application of a creditor of a society, inspect or direct any person authorized by him, by order in writing in this behalf, to inspect the books of the society:

Provided that no such inspection shall be made on the application of a creditor unless the applicant,-

(a) satisfies the Registrar that the debt is a sum then due and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such a sum as security for the costs of the proposed inspection as the Registrar may require.

(3) Where the inspection under sub-section (2) is made on the application of a creditor, the Registrar shall communicate the result of such inspection to such



creditor.

(4) The Registrar or any person authorised by the Registrar under sub-section (1) or subsection (2) shall at all reasonable time have free access to the books, records and accounts of the society and may common any person in possession of or responsible for the custody of any such books, records and accounts, to produce the same for inspection at any place at the headquarters of the society or any branch thereof or where there is no working office for the society, or the office of the Registrar or at the office of any of his subordinate officers. It shall be the duty of every officer and employee of the society to assist in such supervision or inspection and to furnish any information that may be required for the purpose.

(5) The Registrar or the person authorized by him under sub-section (1) or sub-section (2) may, by order in writing, direct the society or its officers to take such action, as may be specified in such order, within the time that may be mentioned in such order.

(6) The Circle Co-operative Union shall have the power to direct that a non-official member-thereof shall be present at an inspection under sub-section (2):

Provided that such non-official member shall not have the power to make the inspection himself.

(7) Apex Society or Federal Co-operative Society or a financing bank shall have the right to inspect the books of any registered society which is affiliated to it, through its officers.

(8) An officer of an Apex Society or Federal Co-operative Society or a financing bank, inspecting the books of a



society shall at all reasonable times have the access to the books, accounts, documents, securities, cash and other properties belonging to the society and may call for such information, statements and return, as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it.

(9) An officer referred to in sub-section (8) shall also have power to summon any person in possession of or responsible for the custody of any books, accounts, documents, securities, cash and other properties, referred to in that sub-section to produce the same for inspection or verification at any place at the headquarters of the society or any branch thereof.

(10) Apex Society or Federal Co-operative Society or the financing bank may also report to the Registrar about the action to be taken against the society, as a result of the inspection by its officers.

66A. Powers of Registrar to give directions.- Subject to the provision contained in this Act and the rules made thereunder, the Registrar may issue general direction and guidelines to the Co-operative Societies in furtherance of the purpose of this Act.

66B. Suspension of Officers.- If the Registrar, in the course of any inquiry under section 65 or on inspection under section 66 or on audit under section 64 or on the report of Vigilance Officer appointed under section, 68A, is satisfied that any officer other than the President, Vice President, Chairman, Vice Chairman and member of the committee of any society, has done any act, detrimental to the interest of the society or its members and that



there is reason to believe that such officer has indulged in misappropriation, manipulation of accounts, forgery, destruction or tampering of records of the society, he may, for reasons to be recorded in writing issue a direction to the committee of the said society to suspend the officer or officers responsible for the offence forthwith.

68. Surcharge.- (1) If in the course of an audit, inquiry, inspection or the winding up of a society, it is found that any person, who is or was entrusted with the organization or management of such society or who is or has, at any time been an officer or an employee of the society, has made any payment contrary to the Act and the rules or the bye-laws, or has caused any loss or damage in the assets of the society by breach of trust, or wilful negligence or mismanagement or has misappropriated or fraudulently retained any money or other property belonging to such society or has destroyed or caused the destruction of the records, the Registrar may, of his own motion or on the application of the committee, liquidator of any creditor, inquire himself or direct any person authorised by him by an order in writing in this behalf, to inquire into the conduct of such person.

(2) Where an inquiry is made under sub-section (1), the Registrar may, after giving the person concerned, an opportunity of being heard, by order in writing, require him to repay or restore the money or other property or any part thereof, with interest at such rate, or to pay contribution and costs or compensation to such extent, as the Registrar may consider just and equitable.



68A. Vigilance Officer.- (1) The Government shall appoint an officer, not below the rank of Deputy Inspector General of Police, as Vigilance Officer with powers to inquire into and investigate the cases of misappropriation, corruption and any other major irregularity in the societies as may be referred to him by the Registrar.

(2) The Vigilance Officer shall conduct the inquiry and investigation in such manner, as may be prescribed.

(3) The Vigilance Officer shall be under the administrative control of the Registrar of Cooperative Societies:

Provided that the powers of the Registrar of Co-operative Societies under this section shall not be conferred on any other person."

11. Investigation provided under Section 66 is complete code itself and any person authorized therein can always seek a report by appointing the investigating officer. The said report cannot be a magnacarta, for straight away taking an action as enshrined under Section 68(1). A buffer was incorporated to hold a further investigation into the allegations emanating from the investigation report. The said procedure has already been followed as per the two reports under Section 66(2) dated 19.01.2023 and Section 68(1) dated 10.08.2022. There has also been a deliberation and



ponderance on account of apportioning the liability individually to the members of the committee instead of jointly and severally. However, on perusal of the report dated 10.08.2022, it is evident that it figures the name of the persons who are liable to be proceeded against on receipt of show cause notice as contemplated Section 68(2) of the Act.

12. On minute and close perusal of the provisions of Section 68(2), it is evident that as and when report is obtained under Section 68(1) of the Kerala Co-operative Societies Act the competent authority is required to issue a show cause notice to the officers or the members of the committee by pointing out the alleged irregularities and the misappropriation done at their end and they have a right to lead evidence in support of the charges referred in the show cause notice to wriggle out of the aforementioned allegations and only thereafter, remedy of appeal or revision has been provided, to the Government against the proceedings. In this view of the matter, we are of the view that the remedy of revision cannot be substituted by deviating from the



procedure prescribed under the provisions of Section 68 of the Act.

13. We would be failing in duty in not extracting the relevant portion of the *ratio decidendi* culled in the judgment in **Reji K.Joshy and Others**(supra). Paragraph No.18 of the judgment reads as under:

"18. What remains to be considered is the argument advanced by Sri.George Poonthottam, the learned Senior Counsel based on the decision of the Apex Court in B.Karunakar. The basic question considered by the Constitution Bench in the said case was whether the report of the inquiry officer, who is appointed by the disciplinary authority to hold an inquiry into the charges against a delinquent employee, is required to be furnished to the employee to enable him to make proper representation to the disciplinary authority before such authority arrives at its finding with regard to the guilt or otherwise of the employee and the punishment, if any, to be awarded to him. The question was considered in the context of the provision contained in Article 311(2) of the Constitution that no civil servant or a person holding a civil post shall be dismissed or removed or reduced in rank except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges. In terms of the Constitution (Forty-second Amendment) Act, 1976, it was clarified that it shall not be necessary to give the employee an opportunity of making



representation on the penalty proposed. The said amendment gave rise to a controversy as to when the inquiry officer is other than the disciplinary authority, whether the employee is entitled to a copy of the findings recorded by him, before the disciplinary authority applies its mind to the findings and evidence recorded, or whether the employee is entitled to the copy of the findings of the inquiry officer only at the second stage namely, when the disciplinary authority had arrived at its conclusions and proposed the penalty. The Apex Court has held in the said case that what is dispensed with in terms of the amendment to the Constitution referred to above, is the opportunity of making representation on the penalty proposed and not of opportunity of making representation on the report of the inquiry officer. The judgment takes note of the fact that before the Forty-second Amendment to the Constitution, the point of time at which it was to be exercised had stood deferred till the second stage namely, the stage of considering the penalty and all that has happened after the Forty-second Amendment to the Constitution is to advance the point of time at which the representation of the employee against the officer's report would be considered. In other words, the view expressed by the Apex Court that insofar as it was not obligatory any more for the competent authority after the Forty-second Amendment of the Constitution to afford an opportunity of making representation on the penalty proposed, the disciplinary authority has to consider the representation of the employee against the report before it arrives at its conclusion with regard to the guilt or innocence of the employee, for in the absence of any provision for the



employee to be heard on the penalty to be imposed on him, if he is not heard before any decision is taken on the penalty, the provision would be futile. Consequently, the question was answered holding that when the inquiry officer is not the disciplinary authority, the delinquent employee has the right to receive a copy of the inquiry officer's report before the disciplinary authority arrives at its conclusions with regard to the guilt or innocence of the employee as regards the charges levelled against him and that a denial of the inquiry officer's report before the disciplinary authority takes its decision on the charges, is a denial of the reasonable opportunity to the employee to prove his innocence and thus, is a breach of the principles of natural justice. The dictum in this case, according to us, has absolutely no bearing on the facts of the case on hand. Even if the inquiry and inspection provided for under Sections 65 and 66 of the Act is equated with the enquiry provided for under Article 311(2) of the Constitution on the charges framed against an employee, the position in the cases on hand would be similar only to the position prior to the Constitution (Forty-second Amendment) Act, for prior to the said constitution amendment, the right to raise objections against the report of inquiry on the charges was deferred till the stage of considering the penalty and the said procedure was not found fault with by the Apex Court. In other words, the said decision also fortifies the view which we are taking in this matter on the question. In the light of the discussion aforesaid, we affirm the dictum laid down in Aravindakshan Nair."

14. We are of the view that language of



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the contemplated notice to be issued to the petitioners would be strictly in terms of the provisions of the Sections 68(1) and 68(2) of the Act. We do not find any illegality and perversity in the order under challenge. No ground for interference is made out. Writ appeal stands dismissed.

Sd/-

AMIT RAWAL

JUDGE

Sd/-

K. V. JAYAKUMAR

JUDGE

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APPENDIX OF WA 372/2025

RESPONDENT EXHIBITS

<i>Annexure R4 (a)</i>	<i>TRUE COPY OF THE REPORT BEARING NO. S.T. 879/2025 DATED 25.03.2025 ALONG WITH ENGLISH TRANSLATION</i>
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