

Copy of circular NO. W2-37758/82 dated 24.3.1983 from the Chief Engineer Irrigation, Trivandrum addressed to the Superintending Engineer , Irrigation Central Circle, Trichur.

C I R C U L A R

Sub:- Guidance for officers entering into agreements with Panchayats, local bodies, Societies Etc.

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Panchayats and Co-operative Societies are very often entering into agreements with the department to take up irrigation works. In one instance a dispute arose as to the liability of the President of a Panchayat in his personal capacity to remit the loss on account of default and the Hon: High Court of Kerala ruled that such liability cannot be said to have been undertaken in the President's personal capacity apart from that of the Panchayat. This ruling of the Hon: High Court was examined by the Liaison Officer, P.W.D., and his opinion is given below.

Section 4 (3) of the Panchayat Act 1960 provides that every Panchayat area shall have perpetual succession and a common seal and shall be vested with the power of suing or being sued in its corporate name. A more or less similar provision is contained in section (9) of the Co-operative societies Act also. Hence it would be enough if a suit against a Panchayat or a Co-operative Society is instituted against the Panchayat or Co-op: Society as the case may be in its corporate name.

As regards the authority to sign agreements on behalf of Panchayats and co-op: societies there is no express provision in their respective acts in the matter. Section 34 (v) of the Panchayat Act 1960 provides that the executive powers for the purpose of carrying out the provisions of the Act and be strictly, responsible for the due fulfillment of the purposes thereof. There is no authority the power to enter into contracts on behalf of Panchayats. Of can therefore be assumed that is the executive officer of a Panchayat who is competent to enter into contracts on behalf of that Panchayat.

Rules 5 (X) of the Kerala Co-op: Societies Rule 1969 authorises the co-op: Societies Rule 1969 authorises the co-op: societies to make their own bye-laws regarding the authorisation of officers to sign documents on behalf of individual societies. Therefore the authority of officers to execute agreements for and on behalf of each co-op: Society has to be verified with reference to the Bye-laws framed by that particular society before any officer of the department executes an agreement with a Co-op: Society.

The departmental officers will note the above directions for guidance.

Sd/- CHIEF ENGINEER (Irrigation)

Forwarded

Sd/- for Chief Engineer

Endt. On D9.812/83 dated 20-4-83.

Copy to all Executive Engineers for guidance.

Copy to all Sections in DB and HD's and to P.A. 's and S.E.'s table.

Copy to F.A., A.A. & Stock file.

For Superintending Engineer.