

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

RP.No. 181 of 2015 (I) IN WP(C).16285/2014

AGAINST THE UDGMENT IN WP(C) 16285/2014 of HIGH COURT OF KERALA DATED
09-12-2014

REVIEW PETITIONERS:

K.M.SUKUMARAN AGED 68 YEARS
S/O.K.K.MAYILAN, RESIDING AT KOCHUVEETIL, NETAJI ROAD
COUNCILLOR, ALUVA MUNICIPALITY, ALUVA
PIN-683101, ERNAKULAM DISTRICT.

BY ADV. SRI.A.G.BASIL

RESPONDENTS:

1. STATE ELECTION COMMISSION
REPRESENTED BY ITS SECRETARY
CORPORATION OFFICE BUILDING COMPLEX, L.M.S.JUNCTION
THIRUVANANTHAPURAM-695033.

2. ALUVA MUNICIPALITY
REPRESENTED BY ITS SECRETARY, ALUVA MUNICIPAL HOUSE
PIN-683101, ERNAKULAM DISTRICT.

3. SECRETARY
ALUVA MUNICIPALITY, ALUVA MUNICIPAL HOUSE, PIN-683101
ERNAKULAM DISTRICT.

4. GRIGARY JOSEPH
XIV/275, KOLLAMPARAMBIL, ALUVA WEST
ERNAKULAM-683101.

5. THE DISTRICT COLLECTOR
ERNAKULAM, CIVIL STATION, KAKKANAD-682030.

6. STATE OF KERALA
REPRESENTED BY THE SECRETARY TO GOVERNMENT
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM, PIN-695001.

7. THE KERALA STATE COMMISSION FOR SCHEDULED CASTE AND
SCHEDULED TRIBE REPRESENTED BY ITS SECRETARY, VELLAYAMBALAM
AYYANKALI BHAVAN, KANAKA NAGAR, VETTIYAR P.O.
VELLAYAMBALAM, THIRUVANANTHAPURAM-695003.

8. OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS
REPRESENTED BY ITS SECRETARY, SAPHALLAYAM COMPLEX
TRIDA BUILDING, PALAYAM, UNIVERSITY P.O.
THIRUVANANTHAPURAM-695034.

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9. ANUJA A.S.
(FORMER MUNICIPAL SECRETARY
ALUVA MUNICIPALITY) NOW RESIDING AT
COCHIN CORPORATION QUARTERS
ERNAKULAM-682011.

GOVERNMENT PLEADER SRI T P SAJID
R1 BY ADV. SRI.MURALI PURUSHOTHAMAN, SC,K.S.E.COMM
R2 & R5 BY SRI.V.M.KURIAN, SC, ALUVA MUNICIPALITY

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON
26-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

kkj

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PETITIONER'S ANNEXURES

ANNEXURE A1: CERTIFIED COPY OF THE JUDGMENT IN WP(C) 16285 OF
2014 OF THIS HON'BLE COURT DATED 09.12.2014

ANNEXURE A2: TRUE COPY OF THE JUDGMENT DATED 04.02.2015 IN
W.A.NO.224 OF 2015 OF THIS HON'BLE COURT

ANNEXURE A3: TRUE COPY OF SCHEME OF BY-ELECTION DATED 03.02.2015
OF DIFFERENT LOCAL SELF GOVERNMENT COUNCILS ISSUED
BY STATE ELECTION COMMISSION

RESPONDENTS' ANNEXURES

NIL

// TRUE COPY //

PA TO JUDGE

K.SURENDRA MOHAN, J.

R.P.(C) No.181 of 2015
in
W.P.(C) No.16285 of 2014

Dated this the 26th day of February, 2015

O R D E R

The petitioner in the writ petition has filed this petition seeking review of the judgment dated 09.12.2014. As per the judgment, the writ petition has been dismissed, relegating the petitioner to pursue his remedy against Exhibit P27 in the writ petition, before the Tribunal for Local Self Government Institutions, Thiruvananthapuram. The judgment was passed on the basis of the submission made by the counsel for the petitioner that, the petitioner had already challenged Exhibit P27 before the Tribunal and that he would pursue his remedies before the said Forum. The counsel for the petitioner now points out that, he had not noticed at that time that, the only remedy available to the petitioner against Exhibit P17 was before this Court under Article 226 of the Constitution. Therefore, it is

contended that, the effect of the judgment is to foreclose a remedy that is available to the petitioner against Exhibit P17. Inasmuch as, the judgment sought to be reviewed has proceeded on the assumption that it would be possible for the petitioner to raise all his contentions before the Tribunal for Local Self Government Institutions, Thiruvananthapuram, it is contended that, there is an error apparent on the face of the record justifying a review of the judgment.

2. I have heard the learned Government Pleader who appears for respondents 5 to 7, Advocate Murali Purushothaman who appears for the first respondent as well as Sri V.M. Kurian who appears for respondents 2 and .

3. It is not in dispute that, the only remedy of the petitioner against Exhibit P17 is under Article 226 of the Constitution. The judgment has been rendered on the assumption that it would be possible for the petitioner to raise all his contentions in the writ petition before the Tribunal for Local Self Government Institutions,

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Thiruvananthapuram, which is erroneous. Therefore, there is an error apparent on the face of the record, justifying a review of the judgment.

This petition is accordingly allowed. The judgment dated 09.12.2014 is reviewed and set aside. Post the writ petition before the appropriate Court as per Roster.

Sd/-
K.SURENDRA MOHAN,
JUDGE

kkj