

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 9TH DAY OF JANUARY 2015/19TH POUSHA, 1936

WA.No. 43 of 2011 () IN WP(C).31589/2010

AGAINST THE ORDER/JUDGMENT IN WP(C) 31589/2010 of HIGH COURT OF
KERALA DATED 14-10-2010

APPELLANT(S)/PETITIONER:

AMBIKA GOPALAN, W/O.LATE GOPALAN,
AGED 54, MUTHIRAPARAMBU, VECHOOR P.O.

BY ADVS.SRI.G.KRISHNAKUMAR
SRI.T.P.SANTHOSH KUMAR
SRI.P.H.SHAJI (THRIKKAKARA)
SRI.TITTO THOMAS

RESPONDENT(S)/RESPONDENTS:

1. RETURNING OFFICER, G.05 VECHOOR GRAMA
PANCHAYATH & TALUK INDUSTRIES OFFICER
TALUK INDUSTRIES OFFICE, VAIKOM.

2. P.M.SUNDARAN, AGED 47 YEARS,
S/O.MADHAVAN, ARAKKAL HOME, KUDAVELLOR P.O.
VAIKOM.

3. KERALA STAE ELECTION COMMISSION,
CORPORATION OFFICE COMPLEX, LMS JUNCTION
THIRUVANANTHAPURAM-695033, REPRESENTED BY
IT'S SECRETARY.

4. VIJU, AGED 33 S/O.VISWAM,
VIJU BHAVAN, EDAYASHAM, VECHOOR-686 144.(DELETED).

5. JOSEPH VADAKKEDATH, AGED 37,
S/O.ULAHANNAN, VADAKKEDATH, EDAYASHAM
VECHOOR P.O.

6. BIJU, AGED 40, S/O.GOPI,
CHIRATEE PARMBU, LEKSHAM VEEDU, EDAYASHAM
VECHOOR P.O.

R4 IS DELETED FROM THE ARRAY OF PARTIES AS PER
ORDER DATED 12.3.2012 IN I.A.NO.201/12.

R3 BY ADV. SRI.MURALI PURUSHOTHAMAN, SC,K.S.E.C
R5 BY ADV. SMT.A.SREEKALA

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 09-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ASHOK BHUSHAN, Ag.CJ & A.M.SHAFFIQUE, J

W.A.No. 43 of 2011

Dated this the 9th January, 2015

JUDGMENT

Ashok Bhushan, Ag.CJ.

Heard learned counsel for the appellant and the learned Standing Counsel for the Kerala State Election Commission.

2. This Writ Appeal has been filed against the judgment dated 14.10.2010 passed in W.P(C).No.31589 of 2010. The petitioner, aggrieved by the rejection of his nomination to contest in the election to Ward No.2 of Vechoor Grama Panchayat, filed the Writ Petition. The learned Single Judge dismissed the Writ Petition observing that the remedy of the petitioner is only to challenge the election after results are announced under the provisions of the Panchayat Raj Act. The learned Single Judge has also taken note of the power under Article 243-O(b) of the Constitution of India and has referred to the judgments of the Apex Court in paragraph 3 of the judgment. Learned counsel for the appellant submits that when the Act is void or without jurisdiction, there is no reason in interfering under Article 226 and the power under Article

243-O(b) of the Constitution may not apply. Present is a case where nomination has been rejected. Learned counsel for the appellant sought to contend that there is no reason or valid ground for rejection of the nomination.

3. Be that as it may, rejection of the nomination cannot be said to be without jurisdiction and whether rejection of nomination was correct or not is a question which has to be considered in the Election Petition to be filed after the result is declared as has been held by the learned Single Judge. We do not find any error in the judgment of the learned Single Judge, which may warrant interference under the appellate jurisdiction.

The Writ Appeal is dismissed.

**ASHOK BHUSHAN
ACTING CHIEF JUSTICE**

**A.M.SHAFFIQUE
JUDGE**

vgs