

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

WEDNESDAY, THE 11TH DAY OF MARCH 2015/20TH PHALGUNA, 1936

WA.No. 343 of 2015 () IN WP(C).32654/2014

AGAINST THE JUDGMENT IN WP(C) 32654/2014 of HIGH COURT OF KERALA
DATED 04-12-2014

APPELLANT/PETITIONER :-

V.H.NAVAS
S/O. HUSSAIN, VALIYAKATH HOUSE, KUNNAMPURAM
FORT KOCHI-1, ERNAKULAM DISTRICT.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS/RESPONDENTS :-

1. STATE ELECTION COMMISSION KERALA REPRESENTED BY THE SECRETARY
STATE ELECTION COMMISSION KERALA, CORPORATION OFFICE COMPLEX,
LMS JUNCTION, PALAYAM, THIRUVANANTHAPURAM-695033.
2. CORPORATION OF COCHIN
REPRESENTED BY THE SECRETARY, CORPORATION OF COCHIN, ERNAKULAM.
3. THE SECRETARY
CORPORATION OF COCHIN, KOCHI-682011.
4. T.K.ASHRAF, COUNCILLOR, DIVISION NO. II, CORPORATION OF COCHIN
ERNAKULAM, KOCHI-682011.

R4 BY ADV. SRI.ARUN BABU
R1 BY ADV. SRI.MURALI PURUSHOTHAMAN, SC,K.S.E.COMM
R2-R3 BY ADV. SRI.BABU KARUKAPADATH,SC,COCHIN CORPORA
SRI.P.K.SOYUZ,SC,COCHIN CORPORATION

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 11-03-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, Ag. C.J &
A.M. SHAFFIQUE, J.**

W.A. No.343 of 2015

Dated this the 11th day of March 2015

J U D G M E N T

Ashok Bhushan, Ag.CJ

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

2. This writ appeal has been filed against the judgment dated 4.12.2014 passed in W.P.(C) No.32654 of 2014, by which, the writ petition filed by the appellant was dismissed by the learned Single Judge. The appellant has filed the writ petition alleging that the 4th respondent has become disqualified to continue as a Councillor of Division No.II of the 2nd respondent Corporation. The petitioner further submits that he has already filed a petition before the State Election Commission to declare that the 4th respondent is disqualified from continuing as a Councillor in the said Division, which petition is pending. The learned Single Judge, after noticing the fact that the petitioner had already filed a petition before the State Election Commission, dismissed the writ petition observing that formal procedures of issuing notice to the respondents and permitting them to file their

objections would take some time and without waiting for the 1st respondent to initiate appropriate action on Ext.P8 petition, the petitioner has filed the writ petition.

3. Learned counsel for the appellant submits that on the petition, which has been filed by him, notice was issued by the State Election Commission on 1.12.2014, which has been brought on record as Annexure R1(e). It is submitted that a direction may be issued to the State Election Commission to decide the matter at an early date. It is further submitted that the term of the Councillor is going to expire on August, 2015.

4. We have considered the submissions made by the learned counsel appearing for both parties and perused the records.

5. We do not find any infirmity in the judgment of the learned Single Judge dismissing the writ petition. Since the petitioner had already filed a petition before the State Election Commission, there was no ground to entertain the writ petition. Although one of the prayers was for a direction to the State Election Commission to decide the matter at an early date, but the proceedings before the State Election Commission requires time to complete the procedure, trial and hearing. Further, it is

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brought to our notice that notice was issued to the petitioner by the State Election Commission on the petition filed by him.

6. Learned Standing Counsel appearing for the State Election Commission submits that the appellant has to appear to cure the defect, if any and to take further steps.

7. Learned counsel for the appellant submits that the appellant shall appear before the State Election Commission within 15 days from today.

Hence, we only observe that the State Election Commission shall dispose of the petition filed by the petitioner as expeditiously as possible. With the above observation, this writ appeal is disposed of.

Sd/-
ASHOK BHUSHAN
Ag. CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

//TRUE COPY//

P.A. TO JUDGE

Jvt