

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&**

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

WA.No. 1301 of 2015

JUDGMENT DATED 10-04-2015 IN WP(C) 28898/2014
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APPELLANT(S)/PETITIONER:

**THE THRISSUR DISTRICT RIFLE ASSOCIATION,
SPORTS COUNCIL, AQUATIC COMPLEX, THRISSUR 680 020,
REP. BY JOINT SECRETARY RENISH DANIEL.**

BY ADV. SRI.G.KRISHNAKUMAR

RESPONDENT(S)/RESPONDENTS:

- 1. KERALA STATE SPORTS COUNCIL,
REPRESENTED BY ITS SECRETARY,
THIRUVANANTHAPURAM - 695 001.**
- 2. THRISSUR DISTRICT SPORTS COUNCIL,
V.K.N MENON INDOOR STADIUM, THRISSUR - 680 020.**
- 3. KERALA STATE RIFLE ASSOCIATION,
POLICE HEAD QUARTERS, I.G.OFFICE, SASTHAMANGALAM,
THIRUVANANTHAPURAM - 695 010.**
- 4. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
SPORTS AND YOUTH AFFAIRS DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 010.**
- 5. PRESIDENT (I G OF POLICE),
KERALA STATE RIFLE ASSOCIATION, POLICE HEAD QUARTERS,
I.G. OFFICE, SASTHAMANGALAM,
THIRUVANANTHAPURAM - 695 010.**

**R1 & R2 BY ADV. SRI.K.PAUL KURIAKOSE
R3 & R5 BY ADV. SRI.R.HARIKRISHNAN
R4 BY GOVERNMENT PLEADER SRI.P.I.DAVIS**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
07-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WA.No. 1301 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES:

**ANNEXURE A1: TRUE COPY OF THE JUDGMENT DTD.10.4.2015 IN
WP(C) NO.33817/2014 OF THIS HON'BLE HIGH COURT.**

**ANNEXURE A2: THE TRUE COPY OF THE NEWSPAPER REPORT PUBLISHED BY
MALAYALA MANORAMA DAILY ON 28.5.2015.**

**ANNEXURE A2(a): THE TRUE ENGLISH TRANSLATION OF THE NEWSPAPER REPORT
PUBLISHED BY MALAYA MANORAMA DAILY ON 28.5.2015.**

RESPONDENT(S)' ANNEXURES:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

W.A.No.1301 of 2015

Dated this, the 7th day of July, 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard learned counsel for the appellant as well as the learned counsel for the 3rd respondent.

2. This writ appeal is filed against the judgment dated 10/04/2015 in W.P.C.No.28898/2014. Writ petitioner is the Thrissur District Rifle Association which filed the writ petition praying for the following reliefs:

“(i) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the first respondent to convene a general body meeting to elect members to the executive committee of the 3rd respondent, by providing equal representation to all District Associations, in conformity with the provisions of the Kerala Sports Rules.

(ii) Issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents 3 & 5 to not to conduct General Body Meeting of the 3rd respondent, including meeting

scheduled on 05.11.2014 at 11.30 P.M at Rajeev Gandhi Indoor Stadium, Kadavanthara, till proper General Body of the 3rd respondent by providing equal representations to all District Associations including the petitioner, is constituted by the 1st respondent.

(iii) Issue a writ mandamus or any other appropriate writ, order or direction commanding the respondents 3 and 5 to not to consider item No.1 in Ext.P6 notice.

(iv) Direct the first respondent to ensure that the executive committee of the third respondent prior to the election dated 15.5.2013 is acting as the office bearers of the 3rd respondent Association in accordance with Ext.P6 order.

(v) Pass such appropriate writ, order or direction as deem just & fit to this Honourable Court.

vi) Allow this Writ petition (Civil) with cost."

3. Election of the third respondent which was held on 15/05/2013 was not recognised by the Kerala State Sports Council (hereinafter referred to as 'the Council'). The Council has issued a letter dated 20/09/2013, Ext.P6, where the following decision was communicated: (Translation)

"In consideration of the above facts, the Standing Committee took the following resolution cited above as

Reference No.2 above.

“The Standing Committee concluded that the election held on 15.5.2013 in Kerala State Rifle Association was in violation of Kerala Sports Rules, 2008. Therefore, resolved to direct the association to maintain status-quo; convene a Special General Body Meeting of the association; amend the bylaw in consonance with Rule 56-3 (e) of Kerala Sports Rules, 2008; conduct election in the presence of Observer appointed by the Kerala State Sports Council; and submit report thereof to the kerala State Sports Council.”

As per the abovementioned resolution the status-quo of the Office Bearers of the Association before 15.5.2013 is maintained. You are further intimated that only after acting as per the above resolution and submission of report, Office Bearers can be recognised.”

4. In the writ petition, petitioner's prayer was to direct the Council to convene a General Body Meeting to elect members to the executive committee of the 3rd respondent, by providing equal representation to all District Associations, in conformity with the provisions of the Kerala Sports Rules and further 3rd respondent was directed not to conduct General Body Meeting scheduled on

05/11/2014. Prior to filing of the writ petition, a civil suit was filed by the petitioner as O.S.No.474/2013, in which the Joint Secretary, who has filed the writ petition, was plaintiff No.3. In the original suit, following prayers were made by the plaintiffs.

“a. Decree of declaration that the Election of Office Bearers of Kerala State Rifle Association held on 15.5.2013 is illegal and void.

b. Decree of permanent prohibitory injunction directing the 1st defendant not to take any decision to take any policy decisions or to do anything to disaffiliate the 1st plaintiff association pending disposal of this suit.

c. Decree of declaration that Clauses 9, 23(b) and 24 of the Rules and Regulations of the 1st defendant association is illegal and ultravires the provisions of Kerala Sports Rules, 2008.

d. Decree of mandatory injunction directing the 1st defendant to hold a fresh Election General Body Meeting and Election in accordance with law.

e. Decree the suit with cost.

f. Pass such other and further orders as this Honourable Court may deem fit and proper in the facts and circumstances of the case.”

5. In the writ petition, although a casual mention was

made about the said original suit in paragraph 18, but neither the copy of the plaint was produced nor the details of the relief claimed in the suit were mentioned. The learned Single Judge dismissed the writ petition noticing that one of the parties had approached the Civil Court and the same is pending, it is not a fit case under Article 226 of the Constitution of India.

6. The learned counsel for the appellant, in support of the appeal, contended that due to stalemate in the functioning of the 3rd respondent, the young talents are suffering. It is submitted that although the Sports Council did not recognise the election held on 15/5/2013, but the office bearers who were elected in the said election are functioning, which is not in accordance with Ext.P6. It is further prayed that a direction may be issued to the Council to convene a meeting and hold election of 3rd respondent for electing members to the executive committee.

7. Learned counsel appearing for the Council submits that the Council had already taken a decision at Ext.P6 and direction had been issued to the 3rd respondent to amend the bye laws in accordance with the statutory rules and thereafter to conduct the election of the committee. Learned counsel appearing for the 3rd

respondent submits that the meeting was convened for considering the amendment in the rules, but in view of the filing of the writ petition and an order being passed that any decision in the meeting shall be subject to the result of the writ petition, no further proceedings were taken by the 3rd respondent. It is submitted that the 3rd respondent shall take steps as per Ext.P6 decision.

8. We have considered the submissions of the learned counsel for the parties and perused the records. Petitioner, having already filed a suit as O.S.NO.474/2013 where the same reliefs, which were sought in the writ petition, had been claimed, we are of the view that, that reason alone was sufficient for not entertaining the writ petition and relegating the petitioner to obtain appropriate remedy in the Civil court. In the above view of the matter, we are of the view that the writ petition itself was not liable to be entertained and dismissed on the ground that the petitioner had already availed the remedy by filing O.S.No.474/2013 before the Civil court. We have, however, noted the contention of the 3rd respondent that steps are being taken by them in compliance of Ext.P6 order. We, thus, are of the view

that no case has been made out by the appellant to interfere with the judgment of the learned Single Judge and accordingly the writ appeal is dismissed.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr