

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. 1415 of 2015

AGAINST THE JUDGMENT IN W.P.(C).NO.32762/2014, DATED 04-06-2015

APPELLANT(S)/PETITIONER :

**K.T.NIZAMUDHEEN,
S/O.ABDURAHIMAN, KARIMARATHODIKA HOUSE, WANDOOD,
GENERAL SECRETARY, WANDOOD JAMIYYATHUL MUJAHIDHEEN,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.K.ANAND
SRI.K.V.RAJENDRAN (WANDOOD)**

RESPONDENT(S)/RESPONDENTS :

- 1. THE GOVERNMENT OF KERALA,
REPRESENTED BY ITS SECRETARY, SECRETARIAT,
THIRUVANANTHAPURAM- 695 001.**
- 2. THE DISTRICT REGISTRAR SOCIETIES (GENERAL),
OFFICE OF THE DISTRICT REGISTRAR SOCIETIES,
MALAPPURAM DISTRICT, MALAPPURAM- 676 505.**
- 3. K.T.MUHAMMEDALI,
S/O.ABDUL KHADER, KARALIKKATTIL THANDUPARAKKAL HOUSE,
WANDOOD P.O., MALAPPURAM DISTRICT- 679 328.**
- 4. E.P.ABDUL LATHEEF,
S/O.VEEERANKUTTY, ELATTUPARAMBIL HOUSE, WANDOOD P.O.,
MALAPPURAM DISTRICT- 679 328.**

**R1 & R2 BY SR.GOVERNMENT PLEADER SRI.P.IDAVIS
R3 & R4 BY ADV. SRI.A.A.ZIYAD RAHMAN**

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

Msd.

WA.No. 1415 of 2015

APPENDIX

PETITIONER(S)' ANNEXURES :

**ANNEXURE A: TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.20331/2007
DATED 23.10.2008.**

RESPONDENT(S)' ANNEXURES :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

ASHOK BHUSHAN, CJ

&

A.M. SHAFFIQUE, J.

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W.A. No.1415 of 2015

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Dated this, the 7th day of July, 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard the learned counsel for the appellant and the learned Government Pleader.

2. This writ appeal has been filed against judgment dated 4/6/2015 in W.P(C) No.32762/2014. The appellant claiming to be the General Secretary of a registered Society had filed the writ petition challenging the decision of the District Registrar (General) Malappuram dated 6/11/2014 by which the lists of the governing body for the years 2013-14 and 2014-15 were admitted to file subject to the decision in the pending OS No.28/2014. The writ petition filed by the appellant has been dismissed by the learned Single Judge leaving the parties to raise their respective contentions before the Civil Court. Learned Single Judge noted that in the writ petition, declaration was sought with regard to the committee in office between the year 2011-2014 and unless that

is established, there could definitely not be a consideration of the new committee holding office from 2014-2015. Learned counsel for the appellant submits that the decision of the Registrar is a non speaking order and he ought to have adjudicated the issue regarding the lists submitted by the writ petitioner. He has placed reliance on the judgment of this Court in **C.M.Z. Musliar v. Aboobacker** (1998 KHC 26).

3. We have considered the submission of the learned counsel for the parties and perused the record.

4. From the materials brought on the record, it is clear that with regard to the governing body which functioned from 2011-2014, a suit as OS NO.28/14 has already been filed by the faction before the Wakf Tribunal which is pending consideration. Subsequent lists submitted have been accepted. Registrar has observed that no prohibitory order has been issued by any authority against the renewal of the list of governing body. Registrar also observed that in view of the necessity of continuing the society as per rules, the lists of the governing body for the years 2013-14 and 2014-15 were admitted to file subject to the decision in the pending OS. We are of the view that sufficient

reasons have been given by the Registrar while taking the decision to register the lists. In proceeding under Section 4, Registrar is not to undertake adjudication of the rival claims regarding the election except, *prima facie* view. The Division Bench judgment relied on by the learned counsel for the appellant in para 10 lays down the following;

"10. In the aforesaid background, we have to find out the scope of S.4 of the Societies Registration Act. The filing of the returns with regard to the office bearers is for a purpose. The mere fact that the section does not clearly state that the Registrar has got power with regard to the acceptance of the returns does not mean that he can accept any number of returns with regard to the same society. That will not serve the purpose of filing of the returns as contemplated. Thus, in the case of a dispute when more than one return is filed, the Registrar has got the power to find out as to which one he should accept. There may not be an elaborate enquiry. Prima facie he has to satisfy as to which return is to be accepted. In this case, we find that the list given by the appellant was accepted, because it had the support of court orders and also it was being followed for a large number of years. No doubt, such an enquiry made by the Registrar and the decision taken from it does not become final. The party can take up the matter before a

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competent court as to who are the members of the governing body."

5. The Division Bench has also observed that the party aggrieved can take up the matter before the competent court as to who were the members of the governing body. The Division Bench has also clearly stated that when two lists are filed, the Registrar has got power to find out as to which one should be accepted, but he need not hold any elaborate enquiry.

6. We, thus, are of the view that the decision of the Registrar cannot be said to be perverse or without the basis of any material and has rightly not been interfered by the learned Single Judge in the writ petition. Appellant is free to get adjudication of his right in a competent Civil Court with regard to the new list.

Appeal is dismissed.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp