

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.SURENDRA MOHAN

TUESDAY, THE 13TH DAY OF JANUARY 2015/23RD POUSHA, 1936

W.P.(C).No. 1022 of 2015 (C)

PETITIONER(S):

**K. CHENTHAMARA,
ERATTUCHELLA HOUSE, NANNIYODE P.O.,
VANDITHAVALAM VILLAGE, CHITTOOR TALUK,
PALAKKAD DISTRICT.**

**BY ADVS.SRI.P.K.VIJAYAMOHANAN
SRI.GILBERT GEORGE CORREYA
SRI.SOJAN MICHEAL
SRI.NISHIL.P.S.**

RESPONDENT(S):

- 1. THE KERALA STATE ELECTION COMMISSION,
THIRUVANANTHAPURAM, REPRESENTED BY THE SECRETARY
CORPORATION OFFICE COMPLEX, L.M.S.JUNCTION,
THIRUVANANTHAPURAM-695 033.**
- 2. M.P.VERENDRAKAUMAR,
V.J.LANE, A-28, VELLAYAMBALAM,
THIRUVANANTHAPURAM-695 010.**

**R1 BY ADV. SRI.MURALI PURUSHOTHAMAN, SC, K.S.E.COMMISSION
R2 BY ADV. SRI. R.D.SHENOY (SR.)**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
13-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

W.P.(C).No. 1022 of 2015 (C)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1- TRUE COPY OF THE PETITION DAETD 06-11-2013 FILED BY THE 2ND RESPONDENT BEFORE THE STATE ELECTION COMMISSION.**
- EXHIBIT P2- TRUE COPY OF THE AFFIDAVIT AND PETITION IN I.A.NO. 175/2014 IN O.P.NO. 96/2013, BEFORE THE STATE ELECTION COMMISSION FILED ON 12-11-2014.**
- EXHIBIT P3- TRUE COPY OF THE ORDER DATED 17-12-2014 IN I.A.NO. 175/2014 IN O.P.NO. 96/2013 OF THE STATE ELECTION COMMISSION.**

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.S. TO JUDGE

St/-

K.SURENDRA MOHAN, J.

W.P.(C) No.1022 of 2015

Dated this the 13th day of January, 2015

JUDGMENT

The petitioner has filed this writ petition challenging Ext.P3 order of the 1st Respondent, by which an application filed by the petitioner for summoning certain documents has been dismissed. The petitioner is the respondent in O.P.No.96/2013 which is pending before the 1st Respondent. Evidence in the said case is over. The evidence of the petitioner in the original petition was over on 23.05.2014. Thereafter, the evidence of the respondent (petitioner in the writ petition) commenced and the evidence was closed on 01.11.2014. According to the petitioner, the evidence was subsequently re-opened and further evidence was let in and finally the evidence was closed on 25.11.2014.

2. In the above circumstances, the petitioner submitted I.A.No.175/2014, seeking the issue of a direction to call for certain records of the Election Commission of India. The said petition is dated

12.11.2014. The petition was considered and dismissed by Ext.P3 order dated 17.12.2014.

3. The 1st Respondent has not gone into the question as to whether the documents were necessary for the purpose of adjudication of the case. It has been noticed that, it was not necessary for the evidence in the case to be reopened for the purpose of production of the documents in question. The Election Commission of India, being a Constitutional authority, it has been held that it is for the petitioner to obtain certified copies of the necessary documents and to produce them in the proceedings before the 1st Respondent, rather than seeking the issue of an order summoning production thereof. It has also been noticed that the petition had been filed after the close of evidence in the case.

4. Heard Shri P.K.Vijayamohanan, learned counsel for the petitioner, the learned Senior Counsel, Shri R.D. Shenoy for the 2nd Respondent and Shri Murali Purushothaman, learned Standing Counsel for the 1st Respondent.

5. I notice from the synopsis of the petitioner that the case stands posted for final hearing to 14.01.2015, that is tomorrow.

6. The 1st Respondent has not by Ext.P3 order precluded the petitioner from producing the documents that he wanted to rely on. The petitioner has only been relegated to the option of obtaining and producing certified copies of the documents sought for. Considering the fact that the petition had been filed at the fag end of the trial, I do not find any infirmity in Ext.P3 order which has held that it is not expedient to hold up the proceedings for the purpose of summoning and producing the documents sought to be produced. As rightly pointed out by the learned Senior Counsel, Shri R.D.Shenoy, it shall be open to the petitioner to challenge Ext.P3 order also, if the final order to be passed in the matter, goes against the petitioner. The petitioner also has the option to produce certified copies of the documents, if they are necessary for him to rely on. It is neither necessary nor expedient to interfere with the proceedings pending

before the 1st Respondent at this stage, for the purpose of permitting the petitioner to produce the documents sought to be summoned.

7. In the above view of the matter, this writ petition is disposed of without prejudice to the right of the petitioner to challenge Ext.P3 also along with the final order that is likely to be passed by the 1st Respondent in the original petition, if the petitioner is aggrieved by the same.

Sd/-
K.SURENDRA MOHAN,
JUDGE

//true copy//

P.S. To Judge

St/-