

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE V.CHITAMBARESH

WEDNESDAY, THE 28TH DAY OF JANUARY 2015/8TH MAGHA, 1936

WP(C).No. 2770 of 2015 (U)

PETITIONERS:

1. THANKAMANI (M NO 6850), VRINDA BHAVAN,
VARAVILA, CLAPPANA, OACHIRA, KOLLAM.
2. REYMOND CARDOZ (M NO.3648),
G D BUNGLOW, CLAPPANA SOUTH,
OACHIRA, KOLLAM.
3. USHA UNNIKRIISHNAN (M NO.11878),
AAKULANGARA, CLAPPANA EAST,
CLAPPANA, OACHIRA, KOLLAM.
4. SARASUDEVI (M NO.12958),
PUTHANPUTHUVAL FISH FARM,
AALUMPEEDIKA, CLAPPANA,
OACHIRA, KOLLAM.
5. SHAJI (M NO.9321), AALUMTHARA
PADEETHATHIL, PRAYAR SOUTH,
AALUMPEEDIKA, CLAPPANA,
OACHIRA, KOLLAM.
6. RADHAKRISHNAN (M NO.8528),
RAJ BHAVAN, AALUMPEEDIKA,
CLAPPANA, OACHIRA, KOLLAM.
7. MADHUSOODANAN (M NO.5942),
THUNDIL THURAYIL, PRAYAR SOUTH,
AALUMPEEDIKA, CLAPPANA,
OACHIRA, KOLLAM.
8. UTHAMAN (M NO.6494), CHATHAPALLIL
LAKSHAM VEEDU, PERUNADU,
CLAPPANA, OACHIRA, KOLLAM.

BY ADV. DR.K.P.PRADEEP

RESPONDENTS:

1. THE STATE OF KERALA REPRESENTED BY
THE SECRETARY, DEPARTMENT OF CO-OPERATION,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.
2. CLAPPANA SERVICE CO-OPERATIVE BANK LTD.NO.867
CLAPPANA P.O., VIA OACHIRA, KOLLAM
REPRESENTED BY ITS SECRETARY-691003.
3. THE RETURNING OFFICER, THE ASSISTANT
REGISTRAR OF CO-OPERATIVE SOCIETIES (GENERAL)
KARUNAGAPALLY, KOLLAM-691002.
4. THE JOINT REGISTRAR (CO-OPERATIVE SOCIETIES)
J R OFFICE, KOLLAM-691001.
5. THE KERALA STATE CO-OPERATIVE ELECTION COMMISSION
CO-BANK TOWERS, THIRUVANANTHAPURAM-695001.
6. THE STATION HOUSE OFFICER,
OACHIRA POLICE STATION,
OACHIRA, KOLLAM-691003.
7. MR.SURESH, SECRETARY,
COMMUNIST PARTY OF INDIA (MARXIST)
LOCAL COMMITTEE, CLAPANNA, OACHIRA
KOLLAM-691003.

BY SPECIAL GOVERNMENT PLEADER SRI. D. SOMASUNDARAM

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 28-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1 : TRUE COPY OF THE NOTIFICATION NO. E(1)/5460/2014SCEC DATED 24.12.2014 ISSUED BY THE 5TH RESPONDENT REGARDING THE ELECTION TO THE MANAGING COMMITTEE OF THE 2ND RESPONDENT CO-OPERATIVE BANK.
- EXHIBIT P2 : TRUE COPY OF THE FIR NO. 85/2015 DATED 15.01.2015 OF THE OACHIRA POLICE STATION, KOLLAM DISTRICT.
- EXHIBIT P3 : TRUE COPY OF THE COMPLAINT DATED 15.01.2015 FILED ON 16.01.2015 BEFORE THE 3RD RESPONDENT BY MR. SAJEED
- EXHIBIT P4 : TRUE COPY OF THE COMPLAINT DATED 15.01.2015 FILED ON 16.01.2015 BEFORE THE 3RD RESPONDENT BY THE PETITIONER HEREIN.
- EXHIBIT P5 : TRUE COPY OF THE ACKNOWLEDGEMENT NO. 47/15 DATED 16.01.2015 ISSUED BY THE 3RD RESPONDENT RECEIVING EXT.P3 COMPLAINT.
- EXHIBIT P6 : TRUE COPY OF THE ACKNOWLEDGEMENT ISSUED BY THE 3RD RESPONDENT RECEIVING EXT. P4 COMPLAINT
- EXHIBIT P7 : TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONERS BEFORE THE 5TH RESPONDENT ON 17.01.2015.
- EXHIBIT P8 : TRUE COPY OF THE RELEVANT NEWS REPORTED IN MALAYALA MANORAMA DAILY DATED 16.01.2015.
- EXHIBIT P9 : TRUE COPY OF THE RELEVANT NEWS REPORTED IN KERALA KAUMUDI DAILY DATED 16.01.2015.
- EXHIBIT P10 : TRUE COPY OF THE RELEVANT NEWS REPORTED IN MADHYAMAM DAILY DATED 16.01.2015.
- EXHIBIT P11 : TRUE COPY OF THE JUDGMENT DATED 21.01.2015 IN WP(C) NO. 23108 OF 2015 OF THIS HON'BLE COURT.
- EXHIBIT P12 : TRUE COPY OF THE ORDER NO. E(1) 5460/2014/SECE DATED 24.01.2015 ISSUED BY THE 5TH RESPONDENT IN EXT.P7 COMPLAINT.

RESPONDENT(S) EXHIBITS : NIL

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

WP(C) NO. 2770 OF 2015

Dated this the 28th day of January, 2015

JUDGMENT

Whether the petitioners were physically obstructed from submitting their nominations for candidature is a disputed question of fact. The same can only be established on evidence as and when an election petition is filed. The Election Commission has by Ext.P12 order found that only one Mr. Sajeed was so obstructed. There is no finding in Ext.P12 order that the petitioners were physically obstructed as alleged. The subjective satisfaction of the Election Commission should weigh atleast till the process of election is over.

2. I however clarify that any finding in Ext.P12 order will not affect the election petition later filed by the petitioners. The election petition deserves to be dealt with on merits on the basis of evidence. The petitioners are free to urge any question including the alleged alteration of the election notification. It will be inequitable to interfere at this juncture in view of **Shri Sant Sadguru Janardan Swami (Moingiri Maharaj)**

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Sahakari Dugdha Utpadak Sanstha and another Vs. State of Maharashtra and others [(2001) 8 SCC 509]. The list of candidates have been published and the poll is slated on 01.02.2015.

I decline jurisdiction. The writ petition is dismissed without prejudice to the right of the petitioners as indicated above.

**V. CHITAMBARESH
JUDGE**

ncd