

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 4446 of 2015 (E)

PETITIONER:

**DR.C.H.MOHAMMAD KAMMADATH,
S/O. ABDUL RAHIMAN, KAMMADAM HOUSE,
NILESHWAR P.O., KASARAGOD-671 314.**

**BY ADVS.SRI.P.SREEKUMAR
SRI.SOORAJ T.ELENJICKAL
SRI.T.S.SARATH
SMT.P.M.MAZNA MANSOOR**

RESPONDENT(S):

- 1. THE DISTRICT REGISTRAR,
OFFICE OF THE DISTRICT REGISTRAR,
CIVIL STATION, VIDYA NAGAR, KASARAGOD - 671 123.**
- 2. N.K. BALAKRISHNAN MEMORIAL TRUST,
REG. NO. 188/98, REPRESENTED BY ITS
GENERAL SECRETARY, DOOR NO. 84,
WARD NO. 11, NILESHWAR - 671314.**
- 3. THE RETURNING OFFICER,
N.K. BALAKRISHNAN MEMORIAL TRUST,
DOOR NO. 84, WARD NO. II, NILESHWAR - 671 314.**
- 4. THE EXECUTIVE COMMITTEE,
N.K. BALAKRISHNAN MEMORIAL TRUST,
REG. NO. 188/98, REPRESENTED BY ITS CHAIRMAN,
DOOR NO. 84, WARD NO. II, NILESHWAR - 671314.**
- 5. PADMANABHAN, THE RETURNING OFFICER,
N.K. BALAKRISHNAN MEMORIAL TRUST, DOOR NO. 84,
WARD NO.II, NILESHWAR - 671314.**

R1 BY SENIOR GOVT. PLEADER SRI.MUHAMMED SHAFI.M

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

WP(C).No. 4446 of 2015 (E)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT-P1- TRUE COPY OF THE NOTIFICATION DATED 12/10/2014.**
- EXHIBIT-P2- TRUE COPY OF THE LIST OF CANDIDATES IN A, B AND C CLASS.**
- EXHIBIT-P3- TRUE COPY OF THE ORDER DATED 14/11/2014 IN I.A 1822/2014 IN O.S 373/2014.**
- EXHIBIT-P4- TRUE COPY OF THE JUDGMENT IN W.P(C) 33812/2014.**
- EXHIBIT-P5- TRUE COPY OF THE NOTIFICATION FOR ELECTION DATED 12/01/2015.**
- EXHIBIT-P6- TRUE COPY OF THE OBJECTION SUBMITTED BY SUKUMARAN TO THE RETURNING OFFICER DATED 31/01/2015.**
- EXHIBIT-P7- TRUE COPY OF THE LIST OF CANDIDATES PUBLISHED BY THE RETURNING OFFICER.**

RESPONDENT(S)' EXHIBITS: - **NIL**

/TRUE COPY/

P.S. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 4446 of 2015

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Dated, this the 13th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

(i) Issue a writ of mandamus or any other writ or order directing the 1st respondent to ensure that the election to the executive committee of the 2nd respondent is held in terms of Exhibit P1 notice by fixing a date of polling without further delay.

(ii) Declare that the election proposed to be held on the 15th day of February is illegal in the light of Exhibit P1 and P2.

(iii) To issue a writ of mandamus or any other writ or order directing the 1st respondent to appoint an officer of the department as the returning officer and to conduct the election as proposed in exhibit P1 and on the basis of the nominations received thereafter.

And

(iv) Issue any other writ or order as is deemed fit by this Hon'ble Court in the greater interest of justice.

2. Similar writ petition has been filed by the other petitioners as well, raising almost similar grounds, by way of W.P.(C) No. 4634 of 2015. The said writ petition stands disposed of, directing the first respondent look into the matter and pass appropriate orders in accordance with law, making it clear that the election scheduled to be held on 15.02.2014 will be subject to the outcome of the orders to be passed.

3. The learned counsel appearing for the petitioner society submits that, the Statute does not confer any power upon the first respondent to deal with such issue. This however is to be considered by the 1st respondent, if such an issue is raised.

4. In the above circumstances, the petitioner is relegated to avail other appropriate remedy for redressal of the grievance, if any, which cannot be adjudicated before this Court, invoking the discretionary jurisdiction under Article 226 of the Constitution of India, more so since specific pleadings and evidence are necessary to deal with the issue.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd