

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

MONDAY, THE 16TH DAY OF FEBRUARY 2015/27TH MAGHA, 1936

WP(C).No. 4826 of 2015 (C)  
-----

PETITIONER:  
-----

T.MABDUL KAREEM, AGED 60 YEARS,  
S/O.MUHAMMED, THYKKOOTTATHIL HOUSE,  
THRIKKAKARA P.O.,  
PIN: 682 021.

BY ADV. SRI.A.B.JALEEL

RESPONDENTS:  
-----

1. THE KERALA STATE ELECTION COMMISSION,  
REP: BY ITS SECRETARY, THIRUVANANTHAPURAM - 695 032.
2. THE KERALA STATE DELIMIATATION COMMISSION,  
REP: BY ITS SECRETARY, THIRUVANANTHAPURAM - 695 001.
3. THE STATE OF KERALA,  
REP: BY THE PRINCIPAL SECRETARY TO GOVERNMENT,  
LOCAL SELF GOVERNMENT (EM) DEPARTMENT  
GOVERNMENT SECRETARIAT,  
THIRUVANANTHAPURAM - 695 001.
4. THE DISTRICT COLLECTOR,  
CIVIL STATION, ERNAKULAM, PIN: 682 030.
5. THE THRIKKAKARA MUNICIPALITY,  
REP. BY THE SECRETARY, THRIKKAKARA P.O., PIN: 682 030.

R1-R2 BY ADV. SRI.MURALI PURUSHOTHAMAN, SC  
R BY SMT. C.K. SHERIN, GOVERNMENT PLEADER  
R BY SRI.S.SHANAVAS KHAN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
16-02-2015, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

: 2 :

**APPENDIX**

PETITIONER'S EXHIBITS :  
-----

P1: TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER  
DATED 25/11/2014 BEFORE THE KERALA STATE ELECTION COMMISSION.

P1a): ENGLISH TRANSLATION OF EXHIBIT P1.

P2: TRUE COPY OF THE REPLY DATED 31/12/2014.

P2(a): ENGLISH TRANSLATION OF EXHIBIT P2.

P3: TRUE COPY OF THE NEWS REPORTED BY THE 'MALAYALA MANORAMA' DAILY  
NEWS PAPER DATED 15/01/2015.

P3(a): ENGLISH TRANSLATION OF EXHIBIT P3

RESPONDENTS' EXHIBITS : NIL  
-----

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

-----  
W.P. (C) No. 4826 of 2015 (C)  
-----

Dated this the 6<sup>th</sup> day of February, 2015.

### JUDGMENT

Heard the learned counsel for the petitioner, the learned Government Pleader and the learned Standing Counsel for respondents 1 and 2, as well as the 5<sup>th</sup> respondent, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioner, a voter in ward No.28 of the 5<sup>th</sup> respondent Municipality, has a grievance that the strength of voters in ward No.28 and that of the neighbouring ward is not equal; seeking rectification in that regard, the petitioner submitted Ext.P1 representation before the first respondent Commission. As could be seen from the record, the first respondent Commission in turn replied through Ext.P2 holding that no Delimitation Commission has so far been formed to look into the issue of equalising the wards.

3. Owing to what are said to be the subsequent

developments, the petitioner approached this Court by filing the present writ petition contending that as per Ext.P3 press statement attributed to the Hon'ble Chief Minister, State Delimitation Commission has been formed, but yet the first respondent Commission has not redressed the petitioner's grievance. Respondents 1 and 2 filed their statement opposing the claims and contentions of the petitioner. In paragraph 7 of the statement, it is averred thus:

“ Thus the task of the State Delimitation Commission commences only after the Government fixes the strength of the Municipalities under Section 6 of the Kerala Municipality Act, 1994. The Government has not so far fixed the strength of the Municipalities under Section 6. As soon as may be after fixing the strength of a Local Self Government Institution, the State Delimitation Commission shall after previous publication of the proposals inviting objections or suggestions, if any and after considering the same, divide the Municipalities into as many wards as there are number of seats as notified under Section 6 (delimit the constituencies).”

4. In furtherance of the statement extracted above, the learned Standing Counsel for respondents 1 and 2 has also submitted that in the event the Government undertakes to exercise its powers under Section 6 of the Kerala Municipality Act, 1994 to vary the total number of seats of Councillors in the

5<sup>th</sup> respondent Municipality, the Delimitation Commission will have to publish the proposals for delimitation of constituencies and issue public notices inviting objections and suggestions with respect to the proposals. According to him, in such an eventuality, the petitioner can submit his objections or suggestions, if any, to the proposals for delimitation. Eventually, the learned Standing Counsel has contended that the writ petition is premature.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel for respondents 1 and 2, apart from the learned Standing Counsel for the 5<sup>th</sup> respondent, this Court dismisses the writ petition as being premature, leaving, however, open for the petitioner to raise his objections at an appropriate stage, as has been indicated in the statement filed by respondents 1 and 2.

sd/- DAMA SESHADRI NAIDU, JUDGE.

