

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

FRIDAY, THE 11TH DAY OF DECEMBER 2015/20TH AGRAHAYANA, 1937

WP(C).No. 6072 of 2015 (H)

PETITIONER(S):

**EANU P.P,
PALLIPETTA HOUSE, EDATHANATTUKARA P.O., VIA ALANELLUR,
PALAKKAD - 678 601.**

**BY ADVS.SRI.K.R.AVINASH (KUNNATH)
SRI.ABDUL RAOOF PALLIPATH**

RESPONDENT(S):

- 1. THE EDATHANATTUKARA ORPHANAGE COMMITTEE,
P.O. EDATHANATTUKARA, VIA ALANALLUR,
PALAKKAD - 678 601, REPRESENTED BY ITS SECRETARY.**
- 2. THE KERALA STATE WAKF BOARD,
V.I.P. ROAD, KALOOR, ERNAKULAM - 682 017.**

**R1 BY ADV. SRI.P.JAYARAM
R2 BY ADV. SRI.K.SHIBILI NAHA, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
11-12-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 6072 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT-P1-TRUE COPY OF THE NOTICE DATED 25/11/2014 ISSUED BY THE
IST RESPONDENT.**

EXHIBIT-P2-TRUE COPY OF THE NOTICE ISSUED BY THE IST RESPONDENT.

EXHIBIT-P3-TRUE COPY OF THE BYE LAW OF THE IST RESPONDENT COMMITTEE.

**EXHIBIT-P4-TRUE COPY OF THE PETITION FILED BY THE PEITIONER AND FEW
OTHERS BEFORE THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

K.HARILAL, J.

W.P.(C) No.6072 of 2015

Dated this the 11th day of December, 2015.

JUDGMENT

The petitioner is a member of the 1st respondent Committee. The managing committee of the said orphanage is elected from among the members of the committee, in every two years. Since the term of the erstwhile committee was over an election was scheduled to be conducted on 11.1.2015 and accordingly notice was issued to all the members. Thereafter, the election was postponed. Then the committee has started a membership campaign to enroll new members and the same is against the bye-law. According to the petitioner, new members cannot be allowed to participate in the election, which is scheduled to be held on 15.3.2015. But, now the 1st respondent committee is taking hectic steps to conduct election without considering the objection raised by the petitioner. This is the grievance

projected in this writ petition.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. It is the case of the petitioner that new members cannot be allowed to participate in the election, which is scheduled to be held on 15.3.2015. But, thereafter, the election stands postponed due to the pendency of this writ petition.

4. Whether new members can be allowed to participate in the election is a matter in issue, which has to be decided by the competent statutory authority and if the petitioner has any dispute as regards the eligibility of new members, the same has to be resolved by the Tribunal constituted under Section 83 of the Wakf Act. According to Section 83(2) of the Wakf Act, any person aggrieved by an order made under this Act or Rules made thereunder may make an application within the time specified in the Act before the Tribunal, for the determination of any dispute, question, or other matter relating to Wakf Board.

5. I do not find any extra ordinary circumstance

warranting interference of this Court in the matter in issue involved in this writ petition, particularly when an alternative and efficacious remedy is provided under the Wakf Act.

6. In the above analysis of the matter, this Court declines jurisdiction and the petitioner is at liberty to approach the Tribunal to redress the grievance highlighted in this writ petition. However, the election shall not be conducted for a period of two weeks, providing an opportunity to the petitioner to seek proper remedy.

This writ petition is dismissed.

Sd/-
K. HARILAL, JUDGE

okb.