

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

TUESDAY, THE 31ST DAY OF MARCH 2015/10TH CHAITHRA, 1937

WP(C).No. 7441 of 2015 (E)

PETITIONER:

BRIDGET CYRIAC, AGED 54 YEARS,
W/O.KURIACHAN @ CYRIAC, THEKKUMKATTIL
THEKKUMKATTIL HOUSE, ARAKKULAM P.O.IDUKKI - 685 591.

BY ADVS.SRI.JOHNSON MANAYANI
SRI.BENHUR JOSEPH MANAYANI
SRI.JEEVAN MATHEW MANAYANI

RESPONDENTS:

1. USHA GOPINATH,
W/O.GOPINATHAN NAIR, VALLITHEKKEDATHU HOUSE,
MOOLAMATTOM P.O., IDUKKI DISTRICT.
2. KERALA STATE ELECTION COMMISSION,
CORPORATION OFFICE COMPLEX, LMS JUNCTION,
TRIVANDRUM - 695 033, REPRESENTED BY ITS SECRETARY.
3. THE STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
LOCAL SELFGOVERNMENT SECRETARIAT
TRIVANDRUM -695 001.

R1 BY ADV. SRI.JAISON JOSEPH
R1 BY ADV. SRI.P.S.APPU
R2 BY ADV. SRI.MURALI PURUSHOTHAMAN, SC,K.S.E.COMMISSION
R BY G. GOPAKUMAR, GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
31-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

EXT.P-1: TRUE COPY OF THE PETITION FILED BY THE FIRST RESPONDENT BEFORE THE 2ND RESPONDENT UNDER SECTION 4 OF THE KERALA LOCAL AUTHORITIES (PROHIBITION OF DEFECTION) DATED 18.08.2014.

EXT.P-2: TRUE COPY OF THE PETITIONER'S OBJECTION TO THE FIRST RESPONDENT'S EXHIBIT P1 PETITION DATED 28.9.2014.

EXT.P-3: TRUE COPY OF THE PETITION FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT TO RECALL THE PW2 DATED 24.2.2015

EXT.P-4: TRUE COPY OF THE OBJECTION FILED BY THE FIRST RESPONDENT TO THE PETITIONER'S EXHIBIT P3 PETITION DATED 25.2.2015

EXT.P-5: TRUE COPY OF THE ORDER UNDER CHALLENGE DATED 25.2.2015 BY WHICH THE 2ND RESPONDENT REJECTS THE PETITIONER'S EXHIBIT P3 PETITION TO RECALL PW2.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 7441 of 2015

Dated this the 31st day of March, 2015.

JUDGMENT

Heard the learned counsel for the petitioner, the learned Government Pleader, the learned counsel for the first respondent and the learned Standing Counsel for the second 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. The first respondent filed O.P. No. 101 of 2014 under Section 4 of the Kerala Local Authorities (Prohibition of Defection) Act before the second respondent Tribunal seeking disqualification of the petitioner herein. In course of time, the petitioner filed Ext.P3 petition seeking recall of PW2 with a view to subjecting him to further cross examination. Eventually, the second respondent Tribunal rejected the petitioner's application for recall of witness, through Ext.P5 order. Aggrieved thereby, the petitioner has filed the present

writ petition.

The learned counsel for the first respondent, in tune with the averments made in the counter affidavit filed by the first respondent, has submitted that there can be no objection to the petitioner's recalling PW2, provided the original proceedings are to be concluded as expeditiously as possible.

The learned Standing Counsel for the respondent Tribunal has also submitted that the delay, if any, would only be caused owing to frequent adjournments on the part of either of the parties and the Tribunal is always looking forward to disposing of all matters at the earliest.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and learned counsel for the first respondent, as well as the learned Standing Counsel for the second respondent, this Court, essentially based on the consent expressed by the first respondent, hereby sets aside Ext.P5 order with a consequential direction to the respondent Tribunal to recall PW2.

It is made clear that the respondent Tribunal may make every effort, which I am sure it has already been making, to dispose of the proceedings at the earliest.

This writ petition is disposed of.

sd/- DAMA SESHADRI NAIDU, JUDGE.

