

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937

WP(C).No. 17266 of 2015 (G)

PETITIONERS:

1. VALSALA.R, AGED 46 YEARS,
W/O.ARAVINDAN, KOCHUMALAYIL HOUSE, BHOODANAM POST,
POTHUKAL, NILAMBOOR, MALAPPURAM DISTRICT.
2. ANUMOL, AGED 47 YEARS,
W/O UNNIKRIISHNAN, KUTHINGAL HOUSE, BHOODANAM POST,
POTHUKAL, NILAMBUR, MALAPPURAM DISTRICT.
3. THRESIAMMA, AGED 44 YEARS,
W/O ANTONY, URIYATHIL HOUSE, BHOODANAM POST,
POTHUKAL, NILAMBOOR, MALAPPURAM DISTRICT.
4. RASIYA, AGED 46 YEARS,
D/O.MUHAMMED, ARANJIKKAL HOUSE, BHOODANAM POST,
POTHUKAL, NILAMBOOR, MALAPPURAM DISTRICT.
5. GEETHA, AGED 35 YEARS,
W/O.SUNDARAN, PANTHAPLAMOOTIL HOUSE, BHOODANAM POST
POTHUKAL, NILAMBOOR, MALAPPURAM DISTRICT.
6. MEENU SAHADEVAN, AGED 54 YEARS,
W/O.SAHADEVAN, PALLIKKUTHU HOUSE, BHOODANAM POST
POTHUKAL, NILAMBOOR, MALAPPURAM DISTRICT.
7. VALSALA, AGED 49 YEARS
W/O BHUVANACHANDRAN, KALARIKKAL HOUSE, BHOODANAM POST
POTHUKAL, NILAMBOOR, MALAPPURAM DISTRICT.

BY ADVS.SRI.K.S.ARUN KUMAR
SMT.M.N.MAYA
SMT.RESMI THOMAS
SRI.M.S.DILEEP

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WP(C).No. 17266 of 2015 (G)

RESPONDENT(S)/RESPONDENTS:

- 1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY,
LOCAL SELF GOVERNMENT,
GOVERNMENT SECRETARIAT(ANNEXE),
THIRUVANANTHAPURAM, PIN-695001.**
- 2. KUDUMBASREE DISTRICT ELECTION OFFICER &
PANCHAYATH DEPUTY DIRECTOR,
MALAPPURAM, PIN-676505.**
- 3. KUDUMBASREE DISTRICT MISSION CO-ORDINATOR,
MALAPPURAM, PIN-676505.**
- 4. THE DISTRICT COLLECTOR,
MALAPPURAM, PIN-676505.**

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17-06-2015
THE COURT ON 03-07-2015, DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

- | | |
|---------------|--|
| EXT.P1 | TRUE COPY OF THE FIR IN CRIME NO.225/2012 OF POTHUKAL POLICE STATION |
| EXT.P2 | TRUE COPY OF THE APPEAL FILED BY THE FIRST PETITIONER DATED 06/03/2015 |
| EXT.P3 | TRUE COPY OF THE HEARING NOTICE DATED 09/04/2015 |
| EXT.P4 | TRUE COPY OF THE ORDER DATED 19/05/2015 PASSED BY THE 4TH RESPONDENT |
| EXT.P5 | TRUE COPY OF THE RELEVANT PAGE OF 18.14 OF THE COMMON DIRECTION IN THE ELECTION OF THE KUDUMBASREE CDS/ADS OF THE GRAMA PANCHAYATH. |

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 17266 of 2015

Dated this the 3rd day of July, 2015

J U D G M E N T

The petitioners are challenging the order disqualifying them to contest the election to the post of Kudumbasree CDS/ADS of the Pothungal Grama Panchayath.

2. The petitioners are the elected members of the post of Kudumbasree CDS/ADS of the Pothungal Grama Panchayath, Malappuram District. They allege that they were appointed as Ayalkkuttam background facility coordinator, ADS member, CDS member, Ayalkkuttam President, ADS chairperson respectively in the said election; and having completed the election procedure, they had taken their respective charges. However, the 2nd respondent declared the election of the petitioners as void for the reason that all the petitioners are accused in a criminal case. The petitioners submitted that they were

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arrayed as accused in Crime No.225/2012 of Pothungal Police Station under Sections 143, 147, 342, 323, 354, 294(b), 506(1) & 353; and as per Ext.P1 FIR, they conducted a protest march to the grama panchayath. Thereafter, on 25.04.2015, all the petitioners filed an appeal before the 4th respondent against their disqualification in the election of the Kudumbasree CDS/ADS of the Pothungal Grama Panchayath; and the 4th respondent issued a hearing notice to the petitioners; and after the hearing, the 4th respondent, as per Ext.P4, dismissed the appeal, which, according to the petitioners, is illegal, arbitrary and fully against Ext.P5 common directions of election of the Kudumbasree CDS/ADS of the panchayath. Hence, this writ petition.

3. I have heard the learned counsel for the petitioners and the learned Government Pleader in the matter.

4. The reason stated in Ext.P4 order for dismissing the appeal is that there is a condition that persons

involved in criminal cases would not be able to contest in the election of the Kudumbasree CDS/ADS of the Grama Panchayath. The learned counsel for the petitioners would argue that the above condition is imposed only against the cases, which relate to financial misappropriation. In support of the said argument, the learned counsel for the petitioners invited my attention to the condition in 18.14 of Ext.P5. It was argued that the said clause, if read as a whole, would make it clear that persons, who commit financial fraud, only could be disqualified. Therefore, it was argued that the order of the 4th respondent is illegal as the registration of an FIR is not a bar for contesting an election even under the Representation of People Act or under any election law.

5. On a perusal of Clause 18.14 of Ext.P5, it can be seen that it gives certain instances, which warrant disqualification. It is true that persons, against whom complaints alleging financial irregularities are lodged, cannot contest the election. It further stipulates that

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persons, who were found guilty; and persons, against whom cases were registered either by police or vigilance and against whom such cases are pending; and persons, against whom action has been taken on account of financial irregularities, are also restrained from contesting election. Therefore, definitely, the pendency of a police case against a person, amounts to disqualification for contesting the election. As Ext.P5 specifically provides the circumstances, under which a person has to be disqualified from contesting the election and as it can be seen that the petitioners are implicated in a criminal case, this Court finds no justifiable reason for interfering with the impugned order.

Therefore, the writ petition fails; and accordingly, it is dismissed.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-