

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WP(C).No. 24235 of 2008 (I)

PETITIONER :

**SONU AUGUSTINE,
ALENCERIL HOUSE, THURUTHY P.O.
CHANGANACHERRY, KOTTAYAM DISTRICT**

**BY ADVS.SRI.JOHN VARGHESE
SRI.JOHN VARGHESE
SRI.P.M.JOSEPH**

RESPONDENTS :

- 1. UNION OF INDIA REPRESENTED BY THE
SECRETARY TO GOVERNMENT, MINISTRY OF LAW AND
JUSTICE, SHASTRI BHAVAN, NEW DELHI.**
- 2. THE CHIEF ELECTION COMMISSIONER,
ELECTION COMMISSION OF INDIA, NIRVACHAM SADAN
NEW DELHI 110 001**

**R1 BY ADV. SRI.P.PARAMESWARAN NAIR,
BY ADV. SRI.TOJAN J.VATHIKULAM,
BY ADV. SRI.M.RAJEEV,
BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
R2 BY ADV. SRI.MURALI PURUSHOTHAMAN, SC,**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 16-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE ELECTION IDENTITY CARD OF THE PETITIONER DT 1/3/2001.**
- P2: COPY OF THE ASSEMBLY WISE RESULT SHEET OF GENERAL ELECTION - 2004 IN ALAPPUZHA LOK SABHA CONSTITUENCY DT NIL.**
- P3: COPY OF THE RESULT SHEET OF ALAPPUZHA PARLIAMENT CONSTITUENCY FOR THE GENERAL ELECTION - 2004 DT NIL.**
- P4: COPY OF THE RESULT SHEET OF THIRUVAMBA DY CONSTITUENCY FOR THE BY - ELECTION DT 7/12/2006.**
- P5: COPY OF THE REPRESENTATION DT 1/12/2007 SUBMITTED BY THE PETITIONER BEFORE THE R2.**
- P6: COPY F THE RECEIPT DT 18/12/2007 ISSUED BY THE POSTAL DEPARTMENT**

RESPONDENT'S EXHIBITS & ANNEXURES :

- ANNEXURE A: PHOTOCOPY BY LETTER NO. 4/3/2008/JS-II/5058 DT 12/9/2008 ISSUED BY THE R2 TO THE PETITIONER.**
- ANNEXURE B: COPY F THE PROCEEDINGS NO. 576/3/2015/SDR DT 16/3/2015 OF THE R2.**
- ANNEXURE C: COPY OF THE DIRECTION NO. 576/3/2015/SDR DT 21/5/2015 OF THE R2 ISSUED PURSUANT TO ANNEXURE -B.**

//TRUE COPY//

P.A. TO JUDGE

bp

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.24235 of 2008

Dated this the 16th day of September, 2015

JUDGMENT

This writ petition is filed with the following reliefs:

- a) issue a writ of mandamus or any other appropriate writ, order or direction directing the respondents to effect adequate remedial measures to distinguish clearly each candidate distinctly on the ballot paper/voting machine, so that the voters can exercise their right of franchise without being misled or deceived by deceptively similar names in any election under the Constitution of India.
- b) issue any other appropriate writ order or direction as this Hon'ble Court may think fit and proper in the facts and circumstances of the case.
- c) award the costs of the petitioner.

2. In this matter, the second respondent filed a statement and an additional statement. Along with the additional statement, Exts.R2(b) and R2(c) are produced. Ext.R2(c) is a direction issued by the Election Commission of India dated 21.5.2015. Paragraphs 3 and 4 of Ext.R2(c) reads as follows:

“Now, therefore, after having considered all aspects of the matter, the Commission, in partial modification of its existing directions under Rule 22, Rule 30 and Rule 49B read with Rule 70 of the Conduct of Election Rules 1961, issued from time to time, hereby specifies that for all elections to be held from 1st May 2015 onwards, the postal ballot papers, the ordinary ballot papers and the ballot papers to be displayed on the balloting unit of EVM shall, in addition to the particulars as per the existing directions, also contain the photograph of the candidates printed thereon. The photograph of the candidates shall be printed in the panel for the name of the candidates and shall appear to the right side of the name in between the name and symbol of the candidate or the column for making vote/preference, as the case may be. The specification for the photograph shall be as follows:-

(i). The candidates are required to submit their recent photograph (taken during the preceding period of three months before the date of notification).

(ii). The photograph should be of stamp size 2 cm. (2 cm. in breadth and 2.5 cm. in height) in white/off white background, with full face view directly facing the camera, neutral facial expression with eyes open. The photo may be in colour or black and white as may be convenient for the candidate.

(iii). Photograph should be in normal clothing. Photograph in uniform is not permitted. Caps/hats should

be avoided. Dark glasses also are to be avoided.

4. The above direction shall apply in relation to all elections to the House of the People, Council of States, Legislative Assembly and Legislative Council to be held hereafter.”

In the light of the above, this Court is of the view, the Election Commission of India has taken necessary action. Therefore, this writ petition is closed.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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