

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 21ST DAY OF JULY 2015/30TH ASHADHA, 1937

W.P(C)No.21119 of 2015(L)

PETITIONER:

FAIZAL T.P AGED 28 YEARS
S/O. ALI, KURUNGOTTUMMAL P.O. PANTHEERANKAVU
KOZHIKODE.

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS:

1. STATE ELECTION COMMISSION,
THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY.
2. STATE DELIMITATION COMMISSION,
THIRUVANANTHAPURAM, REPRESENTED BY ITS SECRETARY.
3. THE SECRETARY,
PERUMANNA GRAMA PANCHAYATH, PERUMANNA P.O., KOZHIKODE.

BY ADV. SRI.MURALI PURUSHOTHAMAN, SC, FOR R 1 & R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
21.7.2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

=: 2 :=

W.P(C)No.21119/2015(L)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT-P1- TRUE COPY OF THE NOTIFICATION DATED 30/06/2010 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT-P2- TRUE COPY OF THE PROCEEDINGS DATED 30/06/2010 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT-P3- TRUE COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER.

EXHIBIT-P4- TRUE COPY OF THE PROCEEDINGS DATED 07/07/2015 ISSUED BY THE 3RD RESPONDENT.

EXHIBIT-P5- TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER.

RESPONDENTS' EXHIBITS:

ANNEXURE R1(a)- THE PHOTOCOPY OF THE LETTER NO.4216/C/15 DATED 17.07.2015 ISSUED BY THE 1ST RESPONDENT TO THE DEPUTY DIRECTOR OF PANCHAYATS.

ANNEXURE R1(b)- THE PHOTOCOPY OF THE LETTER NO.4216/C/15 DATED 17.07.2015 ISSUED BY THE 1ST RESPONDENT TO THE WRIT PETITIONER.

//TRUE COPY//

PA TO JUDGE

PtK/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.21119 of 2015

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Dated this the 21st day of July, 2015

JUDGMENT

The petitioner is aggrieved by the non-consideration of the objection submitted by him before the first respondent.

2. The petitioner is a resident of Ward No.12 of Perumanna Grama Panchayat. The petitioner alleges that there are so many mistakes with respect to the building numbers allotted to Ward No.12 and as per the existing building numbers given by the third respondent, about 18 houses were coming in Ward No.10 instead of Ward No.12. Similarly about 28 houses situated in Ward No.13, the Secretary had mistakenly included those houses in Ward No.12.

3. The petitioner further alleges as per the boundary fixed by the second respondent, those buildings are to be re-numbered and included in Ward No.13. Highlighting all these aspects and to include them in the respective voters' list in accordance with the boundaries

fixed by the second respondent, the petitioner submitted Ext.P3 application before the first respondent. The third respondent, without conducting any enquiry and ignoring the boundaries fixed as per Ext.P1, rejected the application of the petitioner stating that there is no necessity to change the existing structure of the wards. According to the petitioner, this is illegal and arbitrary.

4. The petitioner sought rectification of the mistakes in accordance with the orders issued by respondents 1 and 2. If the mistake stated above is not rectified, the persons who were actually included in Ward No.12 would be denied opportunity to cast their votes to the candidates in Ward No.12. Similarly the persons who are actually residing in Ward No.13 were included in Ward No.12 on account of the mistake committed by the third respondent; it is alleged.

5. The petitioner further alleges that without considering this aspect, the third respondent rejected his request stating that there was

no necessity to alter the existing structure. There is no answer to the application submitted by the petitioner and his request to rectify the mistakes has been declined by the third respondent in an arbitrary manner and without proper application of mind. It is with this background, the petitioner has come up before this Court.

6. In the statement filed by respondents 1 and 2, it was stated that in the light of Annexure R1(a), Ext.P3 was disposed of by the first respondent stating that the complaint in Exts.P3 and P5 being the same, Ext.P5 would be considered and disposed of by the State Election Commission. Copy of the order is produced as Annexure-R1(b). It was also stated that the first respondent would consider and pass orders on Ext.P5 on receipt of the report from the Deputy Director of Panchayats, Kozhikode expeditiously.

7. In the light of the said submission, the learned counsel for the petitioner sought a direction to the Deputy Director of Panchayat, Kozhikode, who is the additional 4th respondent in this case, to hear

the petitioner also before submitting a report to the Election Commission.

Therefore, the writ petition is disposed of directing the 4th respondent to consider the issue and forward the report to the 1st respondent after affording the petitioner an opportunity of being heard. This shall be done within two weeks from the date of receipt of a copy of this judgment. Needless to say that the Election Commission shall pass orders on Ext.P5 after receipt of the report from the 4th respondent.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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