

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

MONDAY, THE 7TH DAY OF SEPTEMBER 2015/16TH BHADRA, 1937

WP(C).No. 26708 of 2015 (K)

PETITIONER:

REGI MATHEW
KENKIRATH HOUSE
ARUVITHURA P.O.

BY ADVS. SRI. SHAJI THOMAS
SRI. BINU PAUL
SRI. GEORGE PULIKUTHIYIL
SRI. B. RAJESH (KOTTAYAM)
SRI. H. KIRAN

RESPONDENTS:

1. STATE OF KERALA REPRESENTED BY
ITS PRINCIPAL SECRETARY TO GOVERNMENT
LOCAL SELF GOVERNMENT (EM) DEPARTMENT
SECRETARIAT, THIRUVANANTHAPURAM 695 001.
2. STATE DE-LIMITATION COMMISSION
THIRUVANANTHAPURAM 695 001
REPRESENTED BY ITS SECRETARY
3. KERALA STATE ELECTION COMMISSION
THIRUVANANTHAPURAM - 695 001.
4. ERATTUPETTA MUNICIPALITY
REPRESENTED BY ITS SECRETARY PIN 686 121.

BY GOVERNMENT PLEADER SMT. K.A. SANJEETHA
R2, R3 BY SRI. MURALI PURUSHOTHAMAN, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-09-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S) EXHIBITS

- EXHIBIT P1 : TRUE PHOTOCOPY OF THE SKETCH PREPARED BY THE SECRETARY, ERATTUPETTA GRAMA PANCHAYATH (NEW MUNICIPALITY) SHOWING THE SHAPE OF PROPOSED WARD NO. 26 ERATTUPETTA MUNICIPALITY.
- EXHIBIT P2 : TRUE PHOTOCOPY OF REPRESENTATION DATED 15.06.2015 FILED BY THE PETITIONER.
- EXHIBIT P3 : TRUE PHOTOCOPY OF THE OBJECTIONS FILED BY THE HARITHA RESIDENTS ASSOCIATION DATED 12.06.2015.
- EXHIBIT P4 : TRUE PHOTOCOPY OF THE REPORT DATED 14.07.2015 OF THE REVENUE DIVISIONAL OFFICER, PALA.
- EXHIBIT P5 : TRUE PHOTOCOPY OF THE SAID REPRESENTATION DATED 12.08.2015 SUBMITTED BY THE PETITIONER.

RESPONDENT(S) EXHIBITS

- ANNEXURE R2(a) THE PHOTOCOPY OF THE JUDGMENT DATED 18.06.2010 IN WP(C) NO. 18524/2010 OF THIS HONOURABLE COURT.

/TRUE COPY/

P.A. TO JUDGE

V. CHITAMBARESH, J

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Dated this the 7th day of September, 2015

JUDGMENT

It is trite law that Delimitation Commission has no power to receive fresh objections after the period prescribed for acceptance of the objection. The Commission is under no legal obligation to go on issuing the revised proposals based on subsequent objection and suggestion. The law in this regard is concluded by the following decisions.

(i) **Mohammed Kutty Haji and others Vs. State Election Commission and others [2010 (3) KHC 976].**

(ii) **Association of Residents of MHOW and another Vs. Delimitation Commission of India and others [(2009) 5 SCC 404].**

(iii) The judgment dated 18.06.2010 in WP(C) No. 18524/2010.

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2. The various procedural formalities followed by the Delimitation Commission has been detailed in paragraph 4 and 5 of the statement filed on behalf of the second respondent. The same are extracted hereunder:

“4. As per Rule 11 of the Kerala Local Authorities (Delimitation Commission) Rules 2005, the Secretaries of the Local Self Government Institutions have to submit preliminary proposals for delimitation of the Local Self Government Institution. After the publication of the draft delimitation proposal the Delimitation Commission invited objections and suggestions to the draft delimitation proposal. 15.06.2015 was the last date notified for accepting the objections and suggestions. The objections and suggestions so received within the time prescribed were got enquired through District Level Officer. The parties were heard on 09.07.2015 at the public sittings at Kottayam and on processing the draft delimitation proposal of Erattupetta Municipality and after hearing the objectors the Delimitation Commission directed the Revenue Divisional Officer, Pala to conduct detailed verification in to certain objections. Accordingly, the Revenue Divisional Officer conducted field verification and enquiry into the said objections in the presence of the objectors, Secretary of the Local Body and the Village Officer and submitted Ext.P4 report to the Commission.

5. The Delimitation Commission, on the basis of the objections and suggestions received till the last date notified, materials

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received and matters brought before the Commission at the time of public hearing has to consider various aspects of the matter and pass final delimitation order. The proceedings in respect of the new Municipalities have already been finalized and final orders will be published on 7th or 8th of September 2015. The Delimitation Commission consists of the State Election Commissioner as the Chairman and four Officers, not below the rank of Secretary to Government as members. There is no regular day to day sitting of the Delimitation Commission and the hearing by the Delimitation Commission contemplated is public hearing."

The petitioner cannot therefore seek consideration of Ext.P5 objection by the second respondent Delimitation Commission after the above formalities are followed. There cannot be a direction to consider the objections filed at different levels lest it derails the smooth conduct of election.

The Writ Petition fails and is dismissed.

**V. CHITAMBARESH
JUDGE**

ncd