

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 28898 of 2014 (J)

PETITIONER(S):

**THE THRISSUR DISTRICT RIFLE ASSOCIATION,
SPORTS COUNCIL, AQUATIC COMPLEX, THRISSUR - 680 020,
REP. BY ITS JOINT SECRETARY RENISH DANIEL.**

**BY ADVS.SRI.G.KRISHNAKUMAR
SRI.K.A.ANI JOSEPH**

RESPONDENT(S):

- 1. KERALA STATE SPORTS COUNCIL,
REPRESENTED BY ITS SECRETARY,
THIRUVANANTHAPURAM - 695 001.**
- 2. THRISSUR DISTRICT SPORTS COUNCIL,
V.K.N. MENON INDOOR STADIUM, THRISSUR - 680 020.**
- 3. KERALA STATE RIFLE ASSOCIATION,
POLICE HEAD QUARTERS, I.G.OFFICE, SASTHAMANGALAM
THIRUVANANTHAPURAM - 695 010, REP. BY ITS SECRETARY.**
- 4. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
SPORTS AND YOUTH AFFAIRS DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 010.**
- 5. PRESIDENT (IG OF POLICE),
KERALA STATE RIFLE ASSOCIATION, POLICE HEAD QUARTERS,
I.G. OFFICE, SASTHAMANGALAM,
THIRUVANANTHAPURAM - 695 010.**

R1 BY ADV. SRI.K.PAUL KURIAKOSE

R3 BY ADVS. SRI.R.HARIKRISHNAN

SRI.E.RAMACHANDRAN

SRI.R.UMASANKAR

SRI.R.RAMESH

SMT.A.SINDHULAKSHMY

SMT.SINDHU SARAH THOMAS

R4 & R5 BY GOVERNMENT PLEADER SRI.RAFEEK V.K.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12-03-2015 ALONG WITH WP(C) NO.28978/2014 THE COURT ON
10-04-2015, DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

- P1: TRUE COPY OF THE RULES & REGULATIONS OF THE PETITIONER.
- P2: TRUE COPY OF THE RULES AND REGULATIONS OF THE 3RD RESPONDENT.
- P3: TRUE COPY OF THE CIRCULAR DATED 1/3/2013 OF THE 1ST RESPONDENT.
- P4: THE TRUE COPY OF THE SAID LETTER DATED 13/5/2013 FROM KERALA STATE SPORTS COUNCIL OF KSRA.
- P5: TRUE COPY OF THE REPLY DATED 8/7/2014 ISSUED BY THE 1ST RESPONDENT UNDER THE RTI ACT.
- P6: TRUE COPY OF THE LETTER DATED 20/9/2013 OF THE 1ST RESPONDENT.
- P7: TRUE COPY OF THE ORDER OF THE STATE GOVERNMENT DATED 26/5/2014.
- P8: TRUE COPY OF THE GENERAL BODY NOTICE DATED 14/10/2014 OF THE 3RD RESPONDENT.
- P9: TRUE COPY OF THE PROPOSED NEW BYELAW OF THE 3RD RESPONDENT.
- P10: TRUE COPY OF THE REPRESENTATION DATED 31/10/2014 TO THE EX OFFICIO PRESIDENT OF 3RD RESPONDENT.
- P11: TRUE COPY OF THE APPLICATION FOR REGISTRATION FILED BY THE 3RD RESPONDENT BEFORE THE 1ST RESPONDENT.
- P12: TRUE COPY OF THE WRITTEN STATEMENT FILED BY HE 3RD RESPONDENT IN OS.NO.474/2013 ON THE FILE OF THE MUNSIF COURT, ERNAKULAM.
- P13: TRUE COPY OF THE PRINTOUT OF RELEVANT PAGE FROM THE OFFICIAL WEBSITE OF THE NATIONAL GAMES.
- P14: TRUE COY OF THE RELEVANT PAGES OF THE NATIONAL SPORTS DEVELOPMENT CODE OF INDIA, 2011.
- P15: TRUE COPY OF THE RELEVANT PAGES OF THE KERALA SPORTS POLICE, 2012.
- P16: TRUE COPY OF THE PRINTOUT OF RELEVANT PORTIONS FROM THE WEBSITE OF THE 3RD RESPONDENT.
- P17: TRUE COPY OF THE INTERIM ORDER DTD.17.10.2014 IN WP(C) NO.27315/2014 BY THIS HON'BLE COURT.

Msv/

WP(C).No. 28898 of 2014 (J)

RESPONDENT(S)' EXHIBITS:

EXT.R3(a) TO R3(c): NIL

EXT.R3(d): COPY OF THE JUDGMENT DTD.6.7.2011 IN WP(C) NO.18253/2011.

EXT.E3(e): COPY OF TH EBYE-LAW OF THE 3RD RESPONDENT.

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) Nos. 28898 & 28978 of 2014

Dated this the 10th day of April, 2015

J U D G M E N T

These writ petitions are filed alleging omission on the part of the Kerala State Sports Council to convene a proper general body of Kerala State Rifle Association as per the provisions of the Kerala Sports Act Rules.

● WP(C) No.28898/2014:

The petitioner is a recognized District Sport Organization in Thrissur Revenue District as envisaged under the Kerala Sports Act, 2008 and Rules. The 3rd respondent, the Kerala State Rifle Association (for short, “the KSRA”), is a State Sports Organization in the sport of rifle target shooting as envisaged under Rule 55(1) of the Kerala Sports Rules, 2008, which is registered with the Kerala State Sports Council. The KSRA is bound by the provisions of the Kerala Sports Act, 2000 and the Kerala Sports Rules, 2008. The

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petitioner alleges that as per Rule 56(3)(e) of the Kerala Sports Rules, all the District Sports Associations shall have equal number of representatives and votes in a State Sports Organization irrespective of the number of members in the District Sports Organizations. The voting right of all the District Rifle Associations in Kerala in KSRA's election shall be equal irrespective of the number of members in District Rifle Associations. According to the petitioner, in direct violation of Rule 56(3)(e) of the Kerala Sports Rules, 2008, Voters List 2013 published by KSRA had unequal representation from various District Rifle Associations. As per Ext.P3, the 1st respondent had issued a circular to all Sports Associations. As per the said circular, election to the executive committee should be informed to the 1st respondent at least 15 days before the Election General Body; and the same shall be conducted in the presence of an observer of the 1st respondent as stipulated under Rule 74. According to the petitioner, the KSRA is

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bound by the provisions of the Kerala Sports Act, Kerala Sports Rules and Regulations made thereunder. The petitioner further alleges that as the KSRA ignored the notice from the 1st respondent, which specially pointed out the illegalities in the election procedure, as per Ext.P4, the 1st respondent refused to send an observer to the election general body of the 1st respondent. So, according to the petitioner, the conduct of election held on 15.05.2013 ignoring the said notice is illegal and the election itself is a nullity. Thereafter, the 1st respondent, as per Ext.P6, refused to recognize the executive committee said to be elected in the general body meeting on 15.05.2013 as it was in violation of the Rules. It also directed the 1st respondent to amend the bylaw and to conduct election within two months. Appeal preferred by KSRA is dismissed vide Ext.P7 by the Government. As per Ext.P6, it is mentioned that the committee, who was in charge prior to 15.05.2013, shall continue till an

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election is conducted and hence, the present committee has no power to continue. Facts being so, the KSRA has scheduled a general body on 05.11.2014 at 11.30 AM at Rajiv Gandhi Indoor Stadium, Kadavanthra, Ernakulam to bring new bylaw of the 3rd respondent and to prescribe model bylaw for the District Rifle Associations by usurping powers of the District Associations, which, according to the petitioner, would destroy their very identity and existence. The petitioner's Ex-Officio president/District Collector was served via email on 17.10.2014 with Ext.P8 notice and Ext.P9 proposed bylaw. It is further alleged that the business to be transacted in the general body is illegal, without authority, against all democratic principles and violative of the Kerala Sports Act & Rules and in violation of Ext.P6 order of the 1st respondent confirmed by the Government in the appeal as per Ext.P7. According to them, the election was not in conformity with Rule 56(3)(e) of the Kerala Sports Rule,

which prescribes that number of representatives of the District Association shall be equal. Therefore, according to the petitioner, without constituting a lawful general body in accordance with Rules by providing equal representation, the KSRA cannot convene a general body meeting especially to consider and decide on a major policy decision like introduction of a new bylaw replacing the existing one.

● WP(C) No.28978/2014:

The petitioners in this writ petition are shooting sportsmen and members of the Palakkad District Rifle Association (for short, "the PDRA"), who is the 3rd respondent. The 1st respondent is the ex-officio President and the 2nd respondent is the ex-officio Vice President by virtue of their offices. The 3rd respondent is a recognized District Sports Organization as contemplated under Section 31(5) of the Kerala Sports Act, 2008 and Rule 55(1) of the Kerala Sports Organization with the 10th respondent via its district

level body 11th respondent. The 12th respondent (KSRA) is a State Sports Organization in the sport of rifle shooting as contemplated under Rule 55(1) of the Kerala Sports Rules, 2008. The 13th respondent is its ex-officio President by virtue of his office. KSRA has its head quarters at Police Head Quarters, Thiruvananthapuram, which is constituted as per the Government Order to train the people of the State in the safe and efficient handling of arms for sports as well as for service in time of national emergency. As a recognized State Sports Organization, KSRA is bound by the provisions of the Kerala Sports Act, 2000 and the Kerala Sports Rules, 2008. As per Section V(a) of the bylaws of PDRA, the tenure of office except that of the President and Vice President is four years. As per Section 5(h) of Ext.P1 bylaws, election to the post of the office bearers shall be conducted within a period of three months from the date of expiry of the term of the office bearers. Last election held in PDRA was on

18.04.2010. The office tenure of the office bearers including the Secretary and representatives to KSRA expired on 17.04.2014. After the tenure, as per the bylaws, it was the duty of the 1st respondent acting as President by virtue of his office, to call for a general body and hold election at least within three months. The petitioners allege that it was not done even after several requests and receiving Ext.P5 mass petition. Since no general body or election was held, the office bearers, who got elected on 18.04.2010, continued to act as office bearers without any authority to do so. The members elected within District Rifle Associations as representatives to 12th respondent (KSRA) along with the secretaries of the respective District Rifle Associations constitute the general body of 12th respondent. Since election was not held in the 3rd respondent (PDRA), the representatives and secretary, who were elected on 18.04.2010, are still continuing as part of the general body of 12th respondent. Among

them, the 5th respondent is acting as the secretary and the 9th respondent is acting as the Vice President of the 12th respondent (KSRA) without any authority or justification. Now, KSRA had emailed notices proposing to hold an extraordinary general body meeting at 11.30 am on 05.11.2014 at Rajiv Gandhi Indoor Stadium, Ernakulam. The agenda of the meeting is the proposal for new bylaw for the KSRA and a model bylaw for the District Rifle Association. There are several clauses in the proposed new bylaws (Ext.P7) for KSRA, which according to the petitioners, are autocratic, suppressive and dictatorial in nature stripping the District Rifle Associations of their identity and self-governance. As per the provisions of the Kerala Sports Act and Rules, District Sports Organizations are independent sports associations having their own independent identities, existence and bylaws. They are independently registered as separate Sports Organizations with the 10th and 11th

respondents. According to the petitioners, the KSRA cannot seize the identity and powers of associations affiliated to it. The petitioners allege that the present move to replace the existing bylaws of the KSRA with a new one and to impose model bylaws for the District Rifle Associations is with malafide motives. The petitioners allege that matters directly affecting the District Rifle Associations and its members, have to be discussed in the general body meeting of the District Rifle Associations. The representatives from each district are supposed to sound the stand of their District Rifle Associations in the KSRA general body meetings. Discussion in the general body meetings of material issues is the very purpose, for which notices are sent by the KSRA to the District Rifle Associations. The 1st respondent should have called a general body to discuss about the extraordinary general body meeting on 05.11.2014 or about the proposal for new bylaw and model bylaw since it can materially affect the PDRA and

its members. Instead, neither the 1st respondent nor the representatives of PDRA to KSRA including the 9th respondent and 5th respondent informed the general body of PDRA about it. The KSRA too did not publish anything about it on its website. All these were done with a malafide intention of keeping the general bodies of the District Rifle Associations in dark about the introduction of new bylaw and model bylaw so as to minimize opposition; it is alleged. The 10th respondent vide Ext.P10 order, has declined to recognize the said election since the general body of the KSRA is improperly constituted with unequal number of representatives from the District Rifle Associations, which is violative of Rule 56(3)(e) of the Kerala Sports Rules. Though the KSRA went in appeal against the said order before the State Government, the same was dismissed vide order dated 26.05.2014. While so, the persons acting as office bearers have no right to act as office bearers and have no authority to hold a general

body of KSRA with an illegally constituted general body or table the new bylaw and model bylaw. The petitioners pointed out that they are not in a position to raise their objections against the proposed new bylaw and model bylaw since the 1st respondent is not holding the general body of the PDRA. Thus, the writ petition.

2. Counter affidavits have been filed by the respondents in both the writ petitions. In the additional counter affidavit filed by the 3rd respondent (KSRA) in WP (C) No.28898/2014, it was pointed out that they have approached the Munsiff's Court, Ernakulam with OS No.474/2013 seeking the same relief as in the writ petition to declare the election of the office bearers of the 3rd respondent, which was conducted on 15.05.2013, as null and void and for consequential reliefs, which is still pending. A copy of the plaint was produced as Ext.R3(a) in the writ petition. It was contended by them that the direction to amend the bylaw of the KSRA in such a way that it should be in conformity with the Sports Act and

Rules, was given only for the purpose of registration under the Sports Council; and it cannot invalidate the election of the office bearers of the KSRA since it is governed by its own bylaws and the provisions of the Societies Registration Act.

3. Arguments have been heard.

4. It is an admitted fact that the dispute regarding the elections held is now pending consideration before a civil court. The main argument advanced by the learned counsel for the petitioners was that the respondent associations, being the functionaries under the statute, are having a statutory obligation to see that the affairs of the associations are conducted in accordance with the rules. Therefore, according to the petitioners, the writ will lie against the respondents since the duty cast on the respondents is of a public nature. However, this Court finds that there are disputed questions of facts, which can be adjudicated only by a competent civil court.

5. The Sports Council shall be sending an

observer to oversee the elections to the general body of the rifle associations only if the bylaws and functions of the association are in conformity with the provisions contained in the Kerala Sports Act and Rules. One of the main contentions raised by the contesting respondents is that the bylaws of the KSRA are not in conformity with the Kerala Sports Act, 2000 and the Rules, 2008 thereunder. In Rule 56(3)(e), the eligibility of the members, who are entitled to vote, is clearly stated. As per Rule 56(3)(e), those individual clubs, institutions or individuals, who do not belong to a particular field of specialization of sport, of which the State Association concerned is involved, are not eligible to vote. The definite case of the respondents is that the number of representatives depending on the number of the members of the District Association is clearly not in tune with the Kerala State Sports Rules, 2008. It is their further case that the bylaws are also not in conformity with the Kerala Sports Rules, 2008. As per the existing rules, the

membership of the District Association shall be confined to the revenue district of the District Association. But, as far as the petitioner in WP(C) No.28898/2014 is concerned, it has members from outside the district as well. Therefore, the bylaws and functioning of the petitioner association in WP(C) No.28898/2014 is not in tune with the Kerala Sports Rules, 2008. It is in this context, the respondents proposed to amend the bylaw.

6. Admittedly, at present, there is a stalemate on account of the nonconformity of the bylaws with the Kerala Sports Rules, which can be got over only through a civil suit instituted as per the provisions of the statute, under which the associations were registered. Admittedly, the associations were registered under the Travancore - Cochin Literary Scientific and Charitable Societies Act, 1995. Section 25 of the said Act provides for getting a scheme framed through the intervention of court and it is open to the parties to get their grievance redressed through a civil suit instituted before a

competent civil court. Admittedly, in this case, one of the parties has approached the civil court and the same is pending. Therefore, this Court is of the view that it is not proper to pass any order in exercise of powers conferred under Article 226 of the Constitution of India.

Therefore, the writ petitions are dismissed permitting the petitioners to get their grievances redressed before an appropriate forum if they choose.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-