

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 28798 of 2015 (S)

PETITIONER(S):

- 1. P.THOMAS GEEVERGHESE, AGED 30 YEARS,
ADVOCATE, VAYALIPARAMBIL HOUSE, PERUMBAVOOR.**
- 2. TONY THOMAS INCHIPARAMBIL, AGED 29 YEARS,
INCHIPARAMBIL HOUSE, THANIPPUZHA, KALADY.**

BY ADV. SRI.LEGITH T.KOTTAKKAL

RESPONDENT(S):

- 1. STATE ELECTION COMMISSION,
KERALA CORPORATION OFFICE COMPLEX, LMS JUNCTION,
PALAYAM, THIRUVANANTHAPURAM-695 033,
RESPRESENTED BY ITS SECRETARY.**
- 2. THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

**R1 BY ADV. SRI.MURALI PURUSHOTHAMAN, SC
R2 BY SPECIAL GOVERNMENT PLEADER SMT.GIRIJA GOPAL**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 28798 of 2015 (S)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1- THE ELECTION SCHEDULE FOR THE YEAR 2010 DOWNLOADED FROM
THE WEBSITE (WWW.SEC. KERALA.GOV.IN).**

EXHIBIT P1(A)- ENGLISH TRANSLATION OF EXT. P1.

**EXHIBIT P2- ORDER DATED 7-09-2015 ISSUED BY THE 1ST RESPONDENT WITH
RESPECT TO CONDUCT OF ELECTIONS.**

RESPONDENT(S)' EXHIBITS:

**EXT.R1(a): THE PHOTOCOPY OF THE NOTIFICATION NO.151/2015/SEC DTD.7.10.2015
ISSUED BY THE STATE ELECTION.**

EXT.R1(b): THE ENGLISH TRANSLATION OF EXT.R1(a).

**EXT.R1(c): THE PHOTOCOPY OF THE NOTIFICATION NO.153/2015/SEC DTD.7.10.2015
ISSUED BY THE STATE ELECTION COMMISSION.**

EXT.R1(d): THE ENGLISH TRANSLATION OF EXT.R1(c).

//TRUE COPY//

P.S.TO JUDGE

Msv/

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 28798 of 2015

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Dated this, the 16th day of October, 2015

J U D G M E N T

Shaffique, J.

Petitioners have approached this Court by filing this Public Interest Litigation seeking the following reliefs;

“i. To declare Ext.P2 is ultravires to Part IX of Constitution of India and issue a writ of certiorari quashing Ext.P2.

ii. To issue a writ of mandamus directing the 1st respondent to conduct elections to the Local Self Government Institutions within a time frame (i.e., before 31/10/2015) as stipulated under Article 243E and 243U of Constitution of India.”

2. The main contention urged on behalf of the petitioners is that the 1st respondent, Kerala State Election Commission is not scheduling elections to various Local Self Government Institutions before 31st October, 2015, in terms of Article 243E and 243U of the Constitution of India.

3. State Election Commission has filed a counter affidavit inter alia stating the circumstances that have prevented the State

-:2:-

Election Commission from holding elections before 31/10/2015. It is stated that various writ petitions have been filed before this Court and on the basis of the findings in the writ petitions, several administrative works have to be completed before declaring the date of election. It is also stated that Annexure R1(d) notification had been issued on 7/10/2005 declaring the election to be completed in two phases, i.e, on 2nd November, 2015 and 5th November, 2015. Annexure R1(d) notification is extracted as under;

“WHEREAS the Government of Kerala have issued a notification under GO(p) No 317/2015/LSGD and published in the Kerala Gazette Extraordinary dated 7th October, 2015 calling upon to elect Councillors in all Municipalities (except Mattanoor Municipality) and Municipal Corporation;

NOW, THEREFORE, in accordance with section 105 of the Kerala Municipality Act, 1994 (Act 20 of 1994), the State Election Commission hereby appoint in respect of the said election to all Municipalities and Municipal Corporations except Mattanur Municipality;

(a) the last date for making nomination which shall be on the 14th day (Wednesday) of October, 2015;

(b) the date for scrutiny of nomination which shall on the 15th day (Thursday) of October, 2015;

(c) the date for the withdrawal of nomination which

-:3:-

*shall be on 17th day (Saturday) of October, 2015;
(d) the date of poll, if necessary, which shall be
taken on the 2nd day (Monday) of November, 2015
for the election being held in the wards in the
districts of Thiruvananthapuram, Kollam Idukki,
Kozhikkode, Wayanad, Kannur, Kasargod and on
the 5th day (Thursday) of November, 2015 in the
districts of Pathanamthitta, Kottayam, Alappuzha,
Ernakulam, Thrissur, Palakkad, Malappuram; and
(e) the last date for completion of election which
shall be on 17th day (Tuesday) of November, 2015."*

4. As matters stand now, since elections have already been declared and the entire process has been initiated, we do not think it necessary to interfere with the action taken by the State Election Commission in this regard.

Accordingly, the writ petition is dismissed.

(sd/-)

ASHOK BHUSHAN, CHIEF JUSTICE

(sd/-)

A.M. SHAFFIQUE, JUDGE

True Copy PS to Judge

Rp

16/10/2015