

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE V. CHITAMBARESH

WEDNESDAY, THE 7TH DAY OF JANUARY 2015/17TH POUSHA, 1936

WP(C).No. 32532 of 2014 (N)

PETITIONERS:

1. RAMESH, MEMBER NO.6228,
KALLUR SERVICE CO-OPERATIVE BANK
LIMITED NO.R 227, P.O.KALLUR, THRISSUR
(RESIDING AT AVIYAL HOUSE,
THRIKOOOR P.O., THRISSUR).
2. NIKHIL, MEMBER NO.14077,
KALLUR SERVICE CO-OPERATIVE BANK
LIMITED NO.R 227, P.O.KALLUR, THRISSUR
(RESIDING AT KARUTHI HOUSE,
P.O.THRIKKUR, THRISSUR).
3. SIVADAS, MEMBER NO.14464,
KALLUR SERVICE CO-OPERATIVE BANK
LIMITED NO.R 227, P.O.KALLUR, THRISSUR
(RESIDING AT MANATH HOUSE,
P.O.THRIKOOOR, THRISSUR).

BY ADV. SRI.P.C.SASIDHARAN

RESPONDENTS:

1. THE KERALA STATE CO-OPERATIVE ELECTION COMMISSION
THIRUVANANTHAPURAM 695 001.
2. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (GENERAL), THRISSUR 680 001.
3. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES
(GENERAL), MUKUNDAPURAM, THRISSUR 680 001.
4. THE PART TIME ADMINISTRATOR, KALLUR SERVICE
CO-OPERATIVE BANK LIMITED NO.R 227, P.O. KALLUR,
THRISSUR, ASSISTANT REGISTRAR OF CO-OPERATIVE
SOCIETIES, MUKUNDAPURAM).

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5. SHENY ANTO PANOKKARAN, MEMBER NO.4232
KALLUR SERVICE CO-OPERATIVE BANK
LTD.NO.R 277, KALLUR P.O., TRICHUR - 680 317.

R4 BY ADV. SRI.SHEEJO CHACKO
R5 BY ADV. SRI.GEORGE POONTHOTTAM
BY SPECIAL GOVERNMENT PLEADER SRI. D. SOMASUNDARAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 07-01-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 : TRUE COPY OF THE IDENTITY CARD ISSUED TO THE 1ST PETITIONER
- EXHIBIT P1(a) : TRUE COPY OF THE IDENTITY CARD ISSUED TO THE 2ND PETITIONER
- EXHIBIT P1(b) : TRUE COPY OF THE IDENTITY CARD ISSUED TO THE 3RD PETITIONER
- EXHIBIT P2 : TRUE COPY OF THE ELECTION NOTIFICATION DATED 10.6.2014 ALONG WITH ITS ELECTION SCHEDULE.
- EXHIBIT P3 : TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DATED 1.7.2014
- EXHIBIT P4 : TRUE COPY OF THE ORDER ISSUED BY THE 1ST RESPONDENT DATED 1.7.2014
- EXHIBIT P5 : TRUE COPY OF THE JUDGEMENT IN WPC NO.17263 OF 2014
- EXHIBIT P6 : TRUE COPY OF THE NOTICE ISSUED TO THE 1ST PETITIONER
- EXHIBIT P6(a) : TRUE COPY OF THE NOTICE ISSUED TO THE 2ND PETITIONER
- EXHIBIT P6(b): TRUE COPY OF THE NOTICE ISSUED TO THE 3RD PETITIONER

RESPONDENT(S)' EXHIBITS

- EXHIBIT R5(a) : TRUE COPY OF THE COMPLAINT GIVEN TO THE ELECTORAL OFFICER.

/TRUE COPY/

P.A. TO JUDGE.

V. CHITAMBARESH, J

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Dated this the 7th day of January, 2015

JUDGMENT

Ext.P6 series notices issued by the fourth respondent Administrator of a Co-operative Society is impugned by the petitioners who are members. The notices are part of the exercise adopted by the part time Administrator to prune the voters list preparatory to election. I find that Ext.P6 series notices are issued in implementation of the directions contained in Ext.P5 judgment directing the conduct of election.

2. That the Administrator has power to remove ineligible members after following the procedure prescribed is concluded by **Gopinathan Nair Vs. Joint Registrar [2002 (2) KLT 817]**. The power is inherent by virtue of Rules 16 and 35 A (4) of the Kerala Co-operative Societies Rules when the Administrator substitutes the managing committee. Even otherwise the voters list has to be pruned in accordance with Rule 18A of the Co-operative Societies Rules brought in by amendment.

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3. A Division Bench of this Court in **Gopalakrishnan Vs. State of Kerala [2011(3) KLT SN 51]** has held that the election should be conducted in accordance with the amended provisions of the Co-operative Societies Act only. The Administrator has therefore the power to remove ineligible members and to identify the active members eligible to vote. It has not been shown that there is lack of jurisdiction on the part of the administrator to issue Ext.P6 series notices.

4. It is the part time Administrator and not the Returning Officer who is verifying as to whether ineligible members continue in the voters list. The part time Administrator is well aware of the conditions precedent for taking action to remove ineligible voters. Therefore the decisions in **Mathew Vs. State of Kerala [1992 (2) KLT 60]** and **Porinchu Vs. Registrar of Co-operative Societies [2009 (4) KLT 105]** relied on by the petitioners have little relevance.

5. The petitioners are at liberty to put forth their objections to Ext.P6 series notices before the fourth respondent administrator himself. Ext.P6 series notices cannot be nipped in

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the bud before the petitioners offering their objections and the Administrator taking consequential action. The Writ Petition is obviously an obstructionist tactics to delay the conduct of election to the Managing Committee.

The Writ Petition is dismissed. No costs.

**V. CHITAMBARESH
JUDGE**

ncd