IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE P.B.SURESH KUMAR

TUESDAY, THE 08TH DAY OF DECEMBER 2020 / 17TH AGRAHAYANA, 1942

WP(C).No.24008 OF 2020(A)

PETITIONER:

A.JAYARAMAN, AGED 58 YEARS
UNITED DEMOCRATIC FRONT(UDF),
PANCHAYATH CONVENER,KAYYUR-CHEEMENI GRAMA PANCHAYATH, KASARAGOD DISTRICT.

BY ADVS.
SRI.PUSHPARAJAN KODOTH
SRI.K.JAYESH MOHANKUMAR
SMT.VANDANA MENON
SRI.VIMAL VIJAY
SHRI.RESHMA T.R.

RESPONDENTS:

1 STATE ELECTION COMMISSIONER
VIKAS BHAVAN,THIRUVANANTHAPURAM-695033.

2 THE DISTRICT COLLECTOR,
KASARAGOD-671121.

3 RETURNING OFFICER,
KAYYUR-CHEEMENI GRAMA PANCHAYATH(ASSISTANT ENGINEER,MINOR IRRIGATIONS NILESHWAR SECTION,OFFICE AT KANHANGAD,KASARAGOD DISTRICT-671315.

4 ELECTION REGISTRATION OFFICER,
KAYYUR-CHEEMENI GRAMA PANCHAYATH,
KASARAGOD DISTRICT-671313.

5 KAYYUR-CHEEMENI GRAMA PANCHAYATH,
REPRESENTED BY THE SECRETARY,
KASARAGOD DISTRICT,PIN-671313.

6 M.BALAKRISHNAN,
LEFT DAMOCRATIC FRONT(LDF),PANCHAYATH
CONVENER,KAYYUR-CHEEMENI GRAMA
PANCHAYATH,KASARAGOD DISTRICT-671313.

R1 BY SHRI.MURALI PURUSHOTHAMAN,
SC,K.S.E.COMM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25-11-2020, THE COURT ON 08-12-2020 DELIVERED THE FOLLOWING:

P.B.SURESH KUMAR, J.

W.P.(C) No.24008 of 2020

Dated this the 8th day of December, 2020

JUDGMENT

Petitioner is an office bearer of the political alliance, 'United Democratic Front' contesting in the ensuing election to the local bodies in the State. It is stated by the petitioner that in the all party meeting convened prior to the election, there was a suggestion from the fourth respondent to change the polling stations of Ward Nos.5, 6, 9, 12 and 13 of Kayyur - Cheemeni Grama Panchayath. The petitioner therefore preferred Ext.P1 representation before the District Election Officer requesting him to refrain from changing the said polling stations. It is stated that while Ext.P1 representation was pending consideration, the polling stations of Ward Nos.5, 6, 9, 12 and 13 have been changed without any previous notice to the voters or to the representatives of the political parties. It is asserted by the petitioner that the

polling stations have been changed at the instance of the political alliance `Left Democratic Front' for their benefit in the election. It is also asserted by the petitioner that the change of the polling stations does not have the approval of the State Election Commission. Similarly, it was alleged by the petitioner that the present locations of the polling stations are not convenient to majority of the voters, especially the elders. It is also alleged by the petitioner that the voters have now to travel more than six kilometres to reach the polling stations. It is stated by the petitioner that as per the guidelines issued by the State Election Commission, polling stations are to be within the radius of two kilometres. On the aforesaid grounds, the petitioner seeks appropriate directions to the respondents to retain the polling stations in their original locations.

2. The State Election Commission has taken the stand that the changes in the polling stations have been approved by them.

3. On 18.11.2020, when the writ petition came up for further consideration, this Court directed the State Election Commission to get instructions as to the reasons for

changing the polling stations pointed out by the petitioner. A further statement was accordingly filed by the State Election Commission on 19.11.2020 with the report of the District Election Officer.

4. Heard the learned counsel for the petitioner as also the learned Standing Counsel for the first respondent, the State Election Commission.

5. The relevant paragraphs of the report of the District Election Officer made available by the State Election Commission read thus:

> "It is submitted that, the 5th respondent herein examined 31 polling booths in Kayyur-Cheemeni Grama Panchayat and report was given to the Deputy Director of Panchayath, Kasaragod in response to the order by the SEC dated 23.6.2020 regarding the status of polling stations, their fitness and stations functioning in private institutions and he pointed out that the polling stations can be re-arranged as given below:
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> 1. 5th Constitution of Cheriyakkara having two polling booths and Booth number 01 in AUP School Pothavoor may be changed to GLP School Cheriyakkara for the easy accessibility for the public.
>
> 2. 6th Constitution of Pothavoor having two polling booths. Polling booth Number 01 AUP School Pothavoor is located in the Fifth Constituency. It may

be changed to GLP School Puliyannur in Sixth Constituency itself on public interest.

3. 9th Constitution having only one Polling booth and it is functioning in a private Institution namely Nusrathul Islam Madrassa. It may be changed to Chanadukkam Community Hall, a public institution where public accessibility is better.

4. 13th Constitution having 2 Polling booths and booths are now functioning in a private institution namely, Nusruthul Huda Secondary Madrassa School may be changed to nearby Public Institutions such as Thacharanampoyil Community Hall and Munda Anganvadi respectively. ”

It is further submitted that, the 5th respondent held a meeting with different political parties on 13.07.2020 and discussed about it. Sri.Jayaraman, UDF Panchayat Convener, the petitioner herein disagreed of the ground that there is no division of the ward, the prevailing status must be maintained. He opined that the Panchayat Secretary must take necessary steps (copy of the minutes enclosed). Accordingly, the Secretary submitted proposal for changing the polling station to the Deputy Director of Panchayats on 4.7.2020 with necessary changes have made as follows.

1. Fifth constitution of Cheriyakkara Booth number 1 in AUP School Pothavoor may be changed to GLP School Cheriyakkara for easy accessibility for the public. The Pothavoor AUP School is situated at

the end of the ward and is changed since the distance exceeds 4.5 Kms. GLP School Cheriyakkara building is still a polling station for the Legislative Assembly Election.

2. Polling Station Number 1 in Sixth Constituency of Pothavoor, AUP School Pothavoor is located in the Fifth Constituency. It may be changed to GLP School Puliyannur in Sixth Constituency itself for public interest and easy accessibility.

3. Polling Station Number 1 in the 9th Constituency Chanadukkam is functioning in a private Institution, by Nusrathul Islam Madrassa. It may be changed to Chanadukkam Community Hall, a public institution where public accessibility is more. In the 2010 Election the booth functioned in a private building in Chanadukkam near by Chanadukkam Community Hall.

4. Polling Station number 1 and 2 in the 12th Constituency of Challuvakkode retained.

5. Polling station number 1 of 13th Constituency of Munda now functioning in Nusruthul Huda Secondary Madrassa School may be changed to nearby Public Institution Thacharanampoyil Community Hall where public accessibility is more.

Based on the report received from the DDP, Kasaragod, proposal has been submitted to SEC on 18/08/2020 by the 2nd respondent as per ref.E2. 45/2020 for approval. The

> State Election Commission as per letter No. B1-32214/2020 dated 7/9/2020 had approved the list of changes of polling station in Kasaragod District with direction to the DEO to issue order to notify the polling station which are ordered to be changed. In response to the above direction, the DEO as per order No.E2-1714/2020 dated 23.9.2020 has been notified the polling stations which are changed and copy of the same communicated to all EROs and Ros for information and publication.
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> The changes of polling station are reflected in the final voters list which is published by the SEC on 10.11.2020."

The statute does not prescribe any specific norm for fixing the polling stations, except that there should be sufficient number of polling stations and that the list of polling stations shall be published with previous approval of the State Election Commission. In the absence of any other stipulation regarding fixation of polling stations in the statute, it is seen that the State Election Commission has issued guidelines for fixing the polling stations after convening meetings of the political parties in the best interests of the voters, and it is on that basis that the polling stations involved in the case on hand have been changed. There is nothing on record to indicate that the decision of the authorities to change the

polling stations is vitiated by malice. As such, in so far as the decision has been taken bonafide, even if it is demonstrated that it was unnecessary to change the polling stations, I do not think that this court would be justified in interfering with the decision, that too, on the eve of the election.

In the said view of the matter, I do not find any merit in the writ petition and the same is, accordingly, dismissed.

Sd/-
P.B.SURESH KUMAR
JUDGE

ds 03.12.2020

APPENDIX

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE OBJECTION DATED 10.07.2020 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**
EXHIBIT P2	**TRUE COPY OF THE VOTERS LIST PUBLISHED BY THE ELECTION REGISTRATION OFFICER DT.11.08.2020.**
EXHIBITP2(A)	**TRUE COPY OF VOTERS LIST PUBLISHED BY ELECTION REGISTRATION OFFICER DT.10.08.2020**
EXHIBIT P2(B)	**TRUE COPY OF VOTERS LIST PUBLISHED BY ELECTION REGISTRATION OFFICER DT.10.08.2020**
EXHIBIT P2(C)	**TRUE COPY OF VOTERS LIST PUBLISHED BY ELECTION REGISTRATION OFFICER DT.10.08.2020**
EXHIBIT P3	**TRUE COPY OF VOTERS LIST PUBLISHED BY ELECTION REGISTRATION OFFICER DT 20.10.2020.**
EXHIBIT P3(A)	**TRUE COPY OF VOTERS LIST PUBLISHED BY ELECTION REGISTRATION OFFICER DT.20.10.2020**
EXHIBIT P3(B)	**TRUE COPY OF VOTERS LIST PUBLISHED BY ELECTION REGISTRATION OFFICER DT 22.10.2020.**
EXHIBIT P3(C)	**TRUE COPY OF VOTERS LIST PUBLISHED BY ELECTION REGISTRATION OFFICER DT 20.10.2020.**
EXHIBIT P4	**TRUE COPY OF TH OBJECTIONS DATED 23.10.2020 SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**

RESPONDENT'S EXHIBITS

ANNEXURE R1(A)	**THE PHOTOCOPY OF PROCEEDINGS NO.B3-3499-2020-SEC DATED 27.08.2020 ALONG WITH RELEVANT PAGES OF THE LIST OF APPROVED POLLING BOOTHS.**