IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE RAJA VIJAYARAGHAVAN V

MONDAY, THE 14TH DAY OF DECEMBER 2020 / 23RD AGRAHAYANA, 1942

WP(C).No.26844 OF 2020(E)

PETITIONER:

SURESH.V,
MEMBER NO.8408, OCHIRA SERVICE CO-OPERATIVE BANK LTD. 1391, OCHIRA, KOLLAM DISTRICT,
RESIDING AT NARANATH, CHENGANKULANGARA, OCHIRA.

BY ADVS.
SRI.P.C.SASIDHARAN
SHRI.GOPIDAS E.N.

RESPONDENTS:

1 **THE KERALA STATE CO-OPERATIVE ELECTION COMMISSION, REPRESENTED BY ITS SECRETARY, 3RD FLOOR, CO-BANK TOWERS, VIKAS BAHVAN P.O., THIRUVANANTHAPURAM-695033.**

2 **THE ELECTORAL OFFICER,**
APPOINTED FOR CONDUCT OF ELECTION TO THE MANAGING COMMITTEE OF OCHIRA SERVICE CO-OPERATIVE BANK LTD. NO.1391, OCHIRA, ASSISTANT REGISTRAR (GENERAL) OF CO-OPERATIVE SOCIETIES, KARUNAGAPPALLY-690519.

3 **THE RETURNING OFFICER,**
APPOINTED FOR CONDUCT OF ELECTION TO THE MANAGING COMMITTEE OF OCHIRA SERVICE CO-OPERATIVE BANK LTD. NO.1391, OCHIRA, UNIT INSPECTOR, (GENERAL) OF CO-OPERATIVE SOCIETIES, KARUNAGAPPALLY-690519.

4 **OCHIRA SERVICE CO-OPERATIVE BANK LTD. 1391, OCHIRA, KOLLAM DISTRICT,**
REPRESENTED BY ITS SECRETARY -690526.

5 ***ADDL.R5. AMBATT ASOKAN**
AGED 62 YEARS
S/O SIVARAMA PILLAI, AMBATT HOUSE,
VALIYAKULANGARA, OACHIRA POST, KOLLAM DISTRICT
PIN - 690526
*** ADDITIONAL R5 IMPLEADED AS PER ORDER DATED 14.12.2020 IN I.A.NO.1 OF 2020.**

R1 BY ADV. SRI.R.LAKSHMI NARAYAN
R4 BY ADV. DR.K.P.PRADEEP

R4 BY ADV. SRI.SANAND RAMAKRISHNAN
R4 BY ADV. SMT.T.THASMI
R5 BY ADV. ARUN CHANDRAN
R5 BY ADV. SHRI.HARIMOHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

The above captioned writ petition is filed seeking to quash Ext.P1 election notification and Ext.P3 modified notification and for a further direction that the Election Commission has no power to prepone the date of election already notified and for considering the representation filed by the petitioner to postpone the election and for incidental reliefs.

2. It is the case of the petitioner herein that he is a member of the Ochira Service Co-operative Bank Ltd. The election to the Managing committee has been notified and the same is scheduled to be held on 20.12.2020. According to the petitioner due to the declaration of election to the Local Self Government Institutions, the Co-operative Election Commission has rescheduled the date fixed for receipt of nomination, scrutiny of nomination and withdrawal. Though the dates and stages prior to and subsequent to the aforesaid events remains unaltered, the rescheduling was carried out without even publishing the revised schedule in two vernacular dailies as provided by Rule 35A(3) of the Co-operative Societies Rules. Since there is violation of procedure, he submitted a request for postponing the election and thereafter approached this Court seeking declaration and direction.

3. The standing counsel appearing for the Election Commission submitted that the assertions made by the petitioner has no basis. According to the learned counsel, the modified schedule was published in two vernacular newspapers and there is no violation of any statutory rules. According to the learned standing counsel, the election process having commenced, this Court will not be justified in interfering with the same. He points out that if the petitioner has any grievance, he is well entitled to raise his contentions in an election petition after completion of the election. Much reliance is placed on the judgment of the Apex Court in **Election Commission of India Vs. Ashok Kumar** [(2000) 8 SCC 216] , **N.P.Ponnuswami vs. Returning Officer, Namkkal Constituency** [AIR 1952 SC 64], **Mohinder Singh Gill v. Chief Election Commissioner** [1978 (1) SCC 405], **Shri Sant Sadguru Janardan Swamy (Moingiri Maharaj) Sahakari Dugdha Utpadak Sanstha and Ors. v. State of Maharashtra and Ors** (2001) 8 SCC 509, to substantiate his contention.

4. The application for impleadment was filed by a member of the Society and the same was allowed.

5. I have heard Sri.P.C.Sasidharan, the learned counsel appearing for the petitioner, Sri.Lakshmi Narayan, the learned standing counsel appearing for the Election Commission and Sri.Arun Chandran, the

learned counsel appearing for the additional respondent.

6. The solitary contention of the petitioner is that there has been violation of procedure and the statutory rules insofar as the revised notification is concerned. The contention that the revised notification was not published in two vernacular dailies is apparently not correct. The petitioner has not been able to show that any prejudice has been caused to him as there is no disturbance of the dates with regard to the publishing of the preliminary voters list, the raising of objections, the date on which the final voters list is published and the date of polling. Furthermore, as held by the Apex Court, this Court should make an attempt to subserve the progress of election and facilitate its completion rather than stalling the same. I am not satisfied that there has been a malafide or arbitrary exercise of power or that the Election Commission had acted in breach of law.

In that view of the matter, I find no reason to interfere with the election process.

This writ petition will stand dismissed.

Sd/-

RAJA VIJAYARAGHAVAN V

JUDGE

DSV

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF NOTIFICATION PUBLISHED IN KERALA KAUMUDI MALAYALAM DAILY DATED 19.11.2020.
EXHIBIT P2	TRUE COPY OF REPRESENTATION SUBMITTED BY PETITIONER TO THE 1ST RESPONDENT DATED 23.11.2020.
EXHIBIT P3	TRUE COPY OF MODIFIED NOTIFICATION DATED 30.11.2020.

RESPONDENTS EXHIBITS: NIL

//TRUE COPY//

P.A TO JUDGE