

John V.C. vs State of Kerala

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Court : Kerala

Decided On : May-28-2024

Judge : Honourable Mr. Justice Devan Ramachandran

Appeal No. : WP(C)/18663/2024

Appellant : John V.C.

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN TUESDAY, THE 28TH DAY OF MAY 2024 / 7TH JYAISHTA, 1946 WP(C) NO. 18663 OF 2024 PETITIONERS: 1 JOHN V.C. AGED 71 YEARS S/O. JOHN V.J., VALAVATH HOUSE, THEKKENADA P.O., VAIKOM, KOTTAYAM, PIN - 686141 2 PAULSON JOSEPH AGED 62 YEARS S/O JOSEPH, VALIYATHARAYIL, CHEMMANATHUKARA P.O., VAIKOM, KOTTAYAM, PIN - 686608 BY ADV K.C.VINCENT RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY THE SECRETARY, DEPARTMENT OF HOME, GOVERNMENT SECRETARIAT,

THIRUVANANTHAPURAM, PIN - 695001 2 THE STATE CO-OPERATIVE ELECTION COMMISSION 3RD FLOOR, CO-BANK TOWERS, VIKAS BHAVAN P.O., THIRUVANANTHAPURAM, REPRESENTED BY ITS CHAIRMAN, PIN - 695033 3 THE RETURNING OFFICER VAIKOM TALUK CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD. NO.K 951, MIDUKKI ENTERPRISES BUILDING, KACHERIKAVALA, VAIKOM P.O., KOTTAYAM, UNIT INSPECTOR, VAIKOM, OFFICE OF THE ASSISTANT REGISTRAR (GENERAL), VAIKOM, PIN - 686141 4 THE DISTRICT POLICE CHIEF KOTTAYAM, COLLECTORATE, KOTTAYAM, PIN - 686002 5 DEPUTY SUPERINTENDENT OF POLICE OFFICE OF THE DEPUTY SUPERINTENDENT OF POLICE, VAIKOM, KOTTAYAM, PIN - 686608 6 THE STATION HOUSE OFFICER POLICE STATION, VAIKOM, VAIKOM P.O., KOTTAYAM, PIN - 7 VAKKACHAN MANNATHALI AGED 55 YEARS S/O K.K. JOSEPH, MANNATHALIL HOUSE, AMBIKA MARKET P.O., VAIKOM, KOTTAYAM, PIN - 686144 8 JOSE JAMES AGED 54 YEARS

WP(C) NO. 18663 OF 2024 2

S/O JAMES, PULIYALAKKAL HOUSE, ARUNNOOTTIMANGALAM P.O., KOTTAYAM, PIN - 686604 9 VAIKOM TALUK CO-OPERATIVE AGRICULTURAL AND RURAL DEVELOPMENT BANK LTD. NO.K 951 MIDUKKI ENTERPRISES BUILDING, KACHERIKAVALA, VAIKOM, KOTTAYAM, REPRESENTED BY ITS SECRETARY., PIN - 686141 10 THE STATE POLICE CHIEF POLICE HEAD QUARTERS, THIRUVANANTHAPURAM, PIN - SMT.REKHA C.NAIR - SR. GP SRI.C.M.NAZAR SRI.SHIHABUDHEEN THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON

28.05.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: WP(C) NO. 18663 OF 2024 3

JUDGMENT

The petitioners who are stated to be the members of the Vaikom Taluk Co-operative Agricultural and Rural Development Bank Ltd. (Bank for short) say that the elections to its Managing Committee has been marred by various acts of violence and disruptions; and therefore, that they have been constrained to approach this Court, seeking that the Police offer necessary protection for its last stage, which is scheduled on 30.05.2024.

2. Sri.K.C.Vincent - learned counsel for the petitioners explained

that, even when polling was attempted on earlier occasions, there were obstructions caused, in spite of the fact that orders for police protection had been issued; and therefore, that it is now incumbent that the Police be directed to afford adequate and effective protection on 30.05.2024. He added that the 2nd prayer of his clients, namely that the 3rd respondent - Returning Officer be directed to videograph the entry points and premises of the polling station till the end of polling on 30.05.2024, also becomes relevant and important in the afore factual scenario.

3. Sri.C.M.Nazar - learned Standing Counsel for the 2nd

respondent - State Co-operative Election Commission, submitted that this writ petition is unnecessary, particularly with respect to prayer WP(C) NO. 18663 OF 2024 4 No.1; while it is not maintainable as regards prayer No.3. He explained that his client is in full charge of the conduct of the elections and that they have also requisitioned the Police to offer assistance, which will be given; and therefore, that the petitioners need not have approached this Court as regards prayer No.1. Coming to Prayer No.2, he submitted that if the petitioners want the premises to be videographed, it can be done during the entire process, provided the expenses for the same is met by them.

4. Sri.Shihabudeen - learned counsel for respondent No.9 - Bank,

submitted that his client also wants the elections to be completed without any unsavory event; and therefore, that they will not stand in the way of appropriate orders being issued by this Court.

5. The endorsement on file show that summons to respondents 7 and 8 have been validly served. However, they are neither present in person today, nor represented through counsel.

6. When one adverts to the afore rival positions of the parties, it is

evident that it is common cause that the elections to the Managing Committee of the Bank is to be conducted without any let or interference on 30.05.2024. Since all the parties are ad idem on this, I have no doubt that the petitioners are entitled to relief in the following manner: WP(C) NO. 18663 OF 2024 5

(a) The respondents 4 to 6 are directed to afford adequate and

effective protection, using sufficient number of police personnel, to ensure that the elections to the Managing Committee of the 9 th respondent - Bank is able to be completed by the 3 rd respondent - Returning Officer, in a peaceful and decorous manner on 30.05.2024; and also to ensure that all illegal obstructions and interdictions are prevented and removed, using necessary force, to the fullest warrant of law.

(b) The 3rd respondent will videograph the entry points in the

premises of the polling station at the Government Girls Higher Secondary School and Government Girls High School, Vaikom, from 8.00 a.m., till the end of polling on 30.05.2024, adverting to Rule 35A(6) (n)(ix) of the Kerala Co-operative Societies Rules. For this purpose, they will be at liberty to requisition the expense of the same from the petitioners, as is now conceded to by them. For this purpose, the competent Authority of the 3rd respondent will inform the petitioners about the amount to be expended by them not later than 3.00 p.m. on 29.05.2024, which will be remitted by the former not later than 12.00 noon on 30.05.2024.

(c) As regards the prayer of the petitioners to appoint an Advocate

Observer, this Court finds no reason to do so, in view of the afore WP(C) NO. 18663 OF 2024 6 directions; but caution the Election Commission that since the conduct of the elections without any let or interference is primarily their

responsibility, every measure and steps, even in addition to the afore directions, will be taken by them, including by requisitioning any further assistance from the Police, for which full liberty is reserved to them. This writ petition is thus ordered.

Sd/- DEVAN RAMACHANDRAN JUDGE MC/28.5 WP(C) NO. 18663 OF 2024 7 APPENDIX OF WP(C) 18663/2024 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE NOTIFICATION ISSUED BY THE 2ND RESPONDENT, KERALA STATE CO- OPERATIVE ELECTION COMMISSION DATED 18.05.2024 Exhibit P2 A TRUE COPY OF THE JUDGMENT DATED 04.07.2022 IN W.P.(C) NO. 20801 OF 2022 Exhibit P3 A TRUE COPY OF THE JUDGMENT OF THIS HON'BLE COURT DATED 08.01.2024 IN W.P.(C) NO. 22503 OF 2022 Exhibit P4 A TRUE COPY OF THE JUDGMENT IN W.P.(C) NO. 2913 OF 2024 DATED 29.02.2024 Exhibit P5 A TRUE COPY OF THE COMMON ORDER DATED 22.03.2024 IN W.P.(C) NO. 2913 OF 2024 AND CONT CASE NO. 662 OF 2024 Exhibit P6 A TRUE COPY OF THE REQUEST DATED 20.05.2024 SUBMITTED BEFORE THE 6TH RESPONDENT WITH COPIES TO THE 4TH AND 5TH RESPONDENTS Exhibit P7 A TRUE COPY OF THE REQUEST DATED 20.05.2024 SUBMITTED BY THE BEFORE THE 3RD RESPONDENT

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