

R.V.Mohammed Rasheed vs the Kerala State Election Commission

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Court : Kerala

Decided On : Jan-23-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/13374/2013

Appellant : R.V.Mohammed Rasheed

Respondent : The Kerala State Election Commission

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
MONDAY, THE 23RD DAY OF JANUARY 2023 / 3RD MAGHA, 1944
WP(C) NO. 13374 OF 2013 PETITIONERS: 1 R.V.MOHAMMED
BASHEER, AGED 57 YEARS S/O.MUHAMMED MUSALIYAR,
MEMBER WARD NO.2, RESIDING AT RAYAMMARAKKAR VEETIL,
JAFFNA HOUSE, PAVARATTI P.O., THRISSUR DISTRICT. 2 SHABINA
SALIM AGED 36 YEARS W/O.UMMER SALIM, MEMBER, WARD
NO.12, RESIDING AT ARAKKAL VATTATHU HOUSE, ,
MARUTHAYOOR P.O., THRISSUR DISTRICT. BY
ADVS.SRI.K.RAMAKUMAR (SR.) SRI.S.M.PRASANTH SMT.SMITHA
GEORGE RESPONDENTS:

1 THE KERALA STATE ELECTION COMMISSION CORPORATION
OFFICE COMPLEX, LMS JUNCTION, PALAYAM,
THIRUVANANTHAPURAM-695 033. 2 THE PAVARATTI GRAMA
PANCHAYATH REPRESENTED BY ITS SECRETARY, THRISSUR-680
507. 3 ABDUL FATHAH S/O.ABDUL RAHMAN,
PADIKKALAPPARAMBIL HOUSE, VENMANAD VILLAGE, PAVARATTI
P.O., THRISSUR-680 507. 4 VIMALA SETHUMADHAVAN
W/O.SETHUMADHAVAN, SREEPADAM, PAVARATTI VILLAGE,
PUVATHOOR P.O., THRISSUR-680 507. BY ADVS.SHRI.DEEPU LAL
MOHAN, SC,ECI N.V.ANUPRIYA DEEPU THANKAN M.SREEKUMAR,
SUNNY MATHEW

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23.01.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- W.P.(C).No.13374 of 2013
----- Dated this the 23rd day of January,
2023

JUDGMENT

This writ petition is filed with following prayers:

- i. To call for the records leading upto Exhibit P5 and quash the same by the issuance of a Writ of Certiorari or any other appropriate writ, order or direction.
- ii. To issue a Writ of Mandamus commanding respondents 1 & 2 to permit the petitioners to continue their membership in the Pavaratty Grama Panchayat and participate in all meetings with voting rights etc. as before, irrespective of the issuance of Ext.P5 order.
- iii. To declare that the petitioners have not entailed any disqualification whatever under the provisions of the Kerala Local Authorities (Prohibition of Defection) Act.

iv. To issue such other writs, orders directions as this Hon'ble Court may deem fit and proper in the circumstances of the case. (SIC)

2. The writ petition is filed challenging Ext.P5 order

dated 30.04.2013 of the Kerala State Election Commission, Thiruvananthapuram by which the Commission passed an

order declaring the petitioner as disqualified for contesting as

candidate in an election to any Local Authority for six years. The order was passed in the year 2013.

3. When this writ petition came up for consideration on 28.05.2013, this Court passed the following order:

Admit. Advocate Murali Purushothaman appears for R1. Issue urgent notice by speed post to the other respondents. The learned counsel for the Election Commission to get down the records of the case. The petitioners are permitted to attend the meetings of the Panchayat, but they shall not function as President or Vice President or vote in the meetings. The resultant vacancies shall also not be filled up.

4. Ext.P5 order as such was not stayed by this Court.

If that be the case, the period of disqualification is already over. Hence no further orders are necessary. Therefore this writ petition is closed. sd/-
P.V.KUNHIKRISHNAN JV JUDGE APPENDIX OF WP(C) 13374/2013
PETITIONER EXHIBITS

EXHIBIT P1.TRUE COPY OF THE PETITION IN OP NO.9/2012 DATED 8/3/2012 FILED EXHIBIT P2.TRUE COPY OF THE PETITION IN OP NO.10/2012 DATED 8/3/2012 FILED EXHIBIT P3.TRUE COPY OF OBJECTION DATED 3/4/2012 FILED BY THE 1ST PETITIONER IN OP NO.9/1012BEFORE 1ST EXHIBIT P4.TRUE COPY OF OBJECTION

DATED 4/4/2012 FILED BY THE 2ND PETITIONER IN OP 10/1012
BEFORE 1ST EXHIBIT P5.TRUE COPY OF ORDER DATD
CONNECTED CASES BY R1.

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