

Mohanan a. vs Legith

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Court : Kerala

Decided On : Feb-16-2022

Judge : Honourable Mr. Justice T.R.Ravi

Appeal No. : Con.Case(C)/165/2022

Appellant : Mohanan a.

Respondent : Legith

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE T.R.RAVI WEDNESDAY,
16TH FEBRUARY , 2022 / 27TH MAGHA, 1943 WP(C) NO. 30876 OF
2021 PETITIONER: MOHAN A. S/O ANDI, KOLAMBIL VEEDU,
VITHAMASSERY, NEMARA, PALAKKAD-678 508 BY ADVS. SRI
P.R.VENKATESH SRI G.KEERTHIVAS RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY ITS SECRETARY, LOCAL
SELF GOVERNMENT DEPARTMENT, THIRUVANANTHAPURAM-695
001 2 ADDITIONAL DISTRICT MAGISTRATE (COORDINATOR)
KUDUMBASREE, DISTRICT MAGISTRATE, CIVIL STATION,
PALAKKAD-678 001 3 KUDUMBASHREE DISTRICT MISSION,

REPRESENTED BY ITS CHAIRMAN, CIVIL STATION, PALAKKAD- 4
NENMARA GRAMA PANCHAYAT, NENMARA, CHITTUR TALUK,
PALAKKAD-678 508, REPRESENTED BY ITS SECRETARY 5
EXECUTIVE DIRECTOR, KUDUMBASHREE, TRIDA BUILDING,
MEDICAL COLLEGE P.O., THIRUVANATHAPURAM-695 011 6
RETURNING OFFICER, CDS ELECTION, NENMARA GRAMA
PANCHAYATH, DEPUTY COLLECTOR, CIVIL STATION, PALAKKAD-
678 001 7 COMMUNITY DEVELOPMENT SOCEITY (CDS), NENMARA
GRAMA PANCHAYAT, NENMARA, PALAKKAD-678510,
REPRESENTED BY ITS MEMBER SECRETARY * ADDL. R8 & R9 ARE
IMPLEADED ADDL. R8 THE DEPUTY COLLECTOR (RR),

& Cont.Case (C)No.165 of 2022 2 CIVIL STATION, PALAKKAD-678
001. ADDL. R9 THE DISTRICT COORDINATOR, KUDUMBASHREE
DISTRICT MISSION, CIVIL STATION, PALAKKAD-678 001.

***(ADDL.R8 & R9 ARE SUO MOTU IMPLEADED AS PER ORDER**

DATED 06-01-2022) BY ADVS. SPL.GOV.T.PLEADER SMT.K.R.DEEPA SRI
N.SATHEESH KUMAR(NEMMARA) SRI BABY MATHEW THIS WRIT PETITION
(CIVIL) HAVING COME UP FOR ADMISSION ON 31.01.2022, ALONG WITH
COC NO.165/2022, THE COURT ON 16.2.2022 DELIVERED THE FOLLOWING:
& Cont.Case (C)No.165 of 2022 3

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE T.R.RAVI WEDNESDAY, 16TH
FEBRUARY , 2022 / 27TH MAGHA, 1943 CON.CASE(C) NO. 165 OF 2022
AGAINST THE ORDER/JUDGMENT IN WP(C) 30876/2021 OF HIGH COURT OF
KERALA PETITIONER/PETITIONER: MOHANAN A. S/O.ANDI, KOLAMBIL
VEEDU, VITHAMASSERY, NENMARA, PALAKKAD DISTRICT, PIN - 678 508.
BY ADVS. P.R.VENKATESH G.KEERTHIVAS RESPONDENTS/RESPONDENTS
7 TO 9:

1 LEGITH (AGE AND FATHER NAME NOT KNOWN TO THE PETITIONER), MEMBER SECRETARY, COMMUNITY DEVELOPMENT SOCIETY (CDS), NAMARA GRAMA PANCHAYAT, NANMARA, PALAKKAD DISTRICT, PIN - 678 510. 2 ABBAS (AGE AND FATHER NAME NOT KNOWN TO THE PETITIONER), DEPUTY COLLECTOR (RR), CIVIL STATION, PALAKKAD - 678 001. 3 P. SAITHALAVI, AGED 50 YEARS, S/O.P.MUHAMMED DISTRICT COORDINATOR, KUDUMBASREE DISTRICT MISSION, CIVIL STATION, PALAKKAD - 678 001.

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 31.01.2022, ALONG WITH WP(C).30876 OF 2021, THE COURT ON 16.2.2022 DELIVERED THE FOLLOWING: & Cont.Case (C)No.165 of 2022 4

T.R.RAVI,J.

----- & Cont.Case (C)No.165 of 2022 -----
Dated this the 16th day of February, 2022

JUDGMENT

The petitioner who is an elected member of the Nenmara Grama Panchayat, has challenged the election process to the Kudumbasree Ayalkoottams of the Panchayat. The prayer in the writ petition is to direct the respondents 2 and 3 to ensure completion of the audit and affiliation/renewal of all Kudumbasree Ayalkoottams of the Nenmara Panchayat before the scheduled elections takes place, so as to enable them to participate in the electoral process.

2. On 6.1.2022, this Court issued the following directions:

(1) Deputy Collector (RR), Civil Station, Palakkad- 678 001 and District Coordinator, Kudumbashree District Mission, Civil Station, Palakkad - 678 001 are impleaded as additional respondents 8 and 9 in both these writ petitions. Registry to make necessary corrections in the cause title.

(2) The respondents 8 and 9 are directed to prepare an & Cont.Case (C)No.165 of 2022 5

additional list of voters representing those Ayalkoottams which are eligible to vote as per Clause 18 of Kudumbashree Election Rules, but have not been included in the voters list for the reason that their auditing has not been completed.

(3) The persons included in these additional lists are also be permitted to participate in the election process. However, the votes cast by such persons will be kept in a different ballot box.

(4) After completing the election, the Electoral Officers may proceed with the counting of the votes and shall prepare the details of votes cast in the main ballot box as well as in the additional ballot box.

(5) In case the election is not through ballot box and is done by show off hands or any other method, the Electoral Officers shall keep separate count of the votes cast by the persons in the main list and the additional list.

(6) A report shall be filed before this Court after the completion of the entire process.

3. As directed in the order, the District Coordinator,

Kudumbasree District Mission, Palakkad has submitted a report. It is stated in the report that pursuant to the order of this Court 20 Ayalkoottams were identified to be Ayalkoottams which had not completed their audit. It is stated that the said Ayalkoottams were asked to appear for audit and out of the 20, fourteen Ayalkoottams submitted the required papers and their audit was completed and they were included in the election process. It is submitted the remaining six Ayalkoottams did not respond to the notice and did not & Cont.Case (C)No.165 of 2022 6 appear before the officer to renew their affiliation. It is further stated that the fourteen Ayalkoottams which were found eligible had participated in the election process for Ayalkoottam election and the second stage of election.

4. In view of the above, the writ petition is disposed of

directing the respondents 8 and 9 to complete the election process on the basis of the list finalised as stated above, including the fourteen Ayalkoottams which were also found eligible, in the election process. If the petitioner has any further grievance, he is at liberty to approach the concerned authorities under Clause 21 of the Election Byelaws, provided he is eligible to raise a challenge as per the Byelaws. Cont.Case (C)No.165 of 2022 5 The contempt case has been filed alleging that the interim

order issued by this Court on 6.1.2022 has not been complied. On

going through the report submitted by the District Co-ordinator, Kudumbasree District Mission, Palakkad in the writ petition, I do not find any wilful disobedience of the order issued by the Court. The interim order was intended to safeguard the rights of such Ayalkoottams who may lose their voting right in the election and was not a recognition of any right of the petitioner to take part in the & Cont.Case (C)No.165 of 2022 7 election. In view of the final judgment in W.P.(C)No.30876 of 2021, no orders are called for in this contempt case and the same is dismissed. Sd/- T.R.RAVI JUDGE dsn & Cont.Case (C)No.165 of 2022 8 APPENDIX OF WP(C) 30876/2021 PETITIONERS' EXHIBITS Exhibit P1 TRUE COPY OF REPRESENTATION SUBMITTED TO THE KUDUMBASHREE DISTRICT MISSION, COORDINATOR, THE ADDITIONAL DISTRICT MAGISTRATE, PALAKKAD Exhibit P2 TRUE COPY OF REPRESENTATION DATED 15.11.2021 SUBMITTED TO THE CHAIRPERSON/MEMBER SECRETARY Exhibit P3 TRUE COPY OF REPRESENTATION DATED 28.12.2021 SUBMITTED BY MEMBERS OF THE KUDUMBASHREE OF WARD NO.III DIRECTLY TO THE COORDINATOR Exhibit P4 TRUE COPY OF REPRESENTATION SUBMITTED TO THE CHAIRPERSON/MEMBER SECRETARY OF THE CDS OF THE NENMARA GRAMA PANCHAYAT DATED 26.11.2021 Exhibit P5 TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT OF THE REPRESENTATION SUBMITTED Exhibit P6 TRUE COPY OF THE ACKNOWLEDGMENT RECEIPT OF THE REPRESENTATION SUBMITTED Exhibit P7 TRUE COPY OF REPRESENTATION DATED 18.11.2021 SUBMITTED BY MEMBER, WARD NO.5 DATED 18.11.2021 Exhibit P8 TRUE COPY OF REPRESENTATION DATED 22.11.2021 SUBMITTED BY CHAIRPERSON OF DEVELOPMENT

STANDING COMMITTEE Exhibit P9 TRUE COPY OF REPRESENTATION DATED 26.11.2021 SUBMITTED BY MEMBER WARD NO.19 Exhibit P10 TRUE COPY OF REPRESENTATION DATED 21.12.2021 SUBMITTED BY PRESIDENT & OTHER MEMBERS TO THE RETURNING OFFICER Exhibit P11 TRUE COPY OF REPRESENTATION DATED 26.11.2021 SUBMITTED BY THE MEMBER WARD NO.16 TO THE DISTRICT MISSION COORDINATOR Exhibit P12 TRUE COPY OF REPRESENTATION DATED 26.11.2021 SUBMITTED BY MEMBER WARD NO.1 Exhibit P13 TRUE COPY OF THE ORDER DATED 14.01.2022 ISSUED BY CHIEF SECRETARY, GOVERNMENT OF KERALA. & Cont.Case (C)No.165 of 2022 9 APPENDIX OF CON.CASE(C) 165/2022 PETITIONERS' ANNEXURES Annexure A CERTIFIED COPY OF THE ORDER DATED

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