

(2008) 11 KL CK 0013

In the High Court Of Kerala

Case No : Writ Petition (C) No"s. 32012 and 32174 of 2008

Francis Dominic and Others

APPELLANT

Vs

Kerala State Co-operative Election Commission and Others

RESPONDENT

Date of Decision : 05-11-2008

Acts Referred:

Citation : (2008) 11 KL CK 0013

Hon'ble Judges : Thottathil B. Radhakrishnan, J

Bench : Single Bench

Advocate : Jijo Paul, Babu S. Nair, C.A. Chacko and C.M. Charishmam, for the Appellant; K.S. Santhosh Kumar, Government Pleader and Millu Dandapani, for the Respondent

Final Decision : Allowed

Judgement

Thottathil B. Radhakrishnan, J.—Petitioners challenge the rejection of their nominations for election to the committee of a co-operative bank in terms of Ext. P-1 notification issued by the State Co-operative Election Commission. Their nomination papers are rejected for "want of specification of the category".

2. The election is governed by Rule 35A of the Kerala Co-operative Societies Rules, 1969, hereinafter, the "Rules". Sub-rule (6)(a) thereof provides that the nomination of the candidates for election shall be made in Form No. 36. Sl. No. 1. (f) of that Form calls for stating the "Ward/Region in which contesting".

3. Ext. P-1 notification is issued notifying 11 vacancies, nine of which are earmarked as "A", general category; one as "B" and another as "C", which are seats reserved for members belonging to Scheduled Castes or Scheduled Tribes and for women in terms of Section 28A of the Kerala Co-operative Societies Act, 1969. None among the Petitioners has submitted the nomination, specifically to be in categories "B" and "C" reserved in terms of Section 28A.

4. The notification does not provide for any delimitation of the area of operation of the bank into wards or regions on geographical basis. This is, obviously,

because, there is no provision in the bye-laws of the bank providing for any such delimitation. The provision in Sl. No. 1.(f) in Form No. 36 is relevant only in societies where the area of operation is delimited into wards or regions on geographical basis and it does not apply to cases where there is no such delimitation. The sex of a candidate has to be disclosed at Sl. No. 1.(d). Candidates contesting to seat reserved for Scheduled Castes or Scheduled Tribes have to make the relevant declaration, as provided for, in the nomination form prescribed as Form No. 36 which is a statutory form. The electoral college comprises of all eligible voters in the final voters' list. While the candidates belonging to the Scheduled Castes and Scheduled Tribes or women cannot be prohibited from contesting to any among the nine seats in the general category, no person who has not submitted the nomination specifically for any of those reserved categories could be compelled to state as to from which category he intends to contest. Therefore, there can be no insistence on a person who is not contesting as against any reserved seat, to state any ward or region from which he is contesting. In cases of such societies where there is no delimitation of the area of operation into different wards or regions on geographical basis, column 1. (f) in Form No. 36 of the Rules is superfluous and illusory. Any failure to fill it, will be of no consequence because, there is no particular region or ward which could be represented.

5. For the aforesaid reasons, the rejection of the nomination papers of the Petitioners is unsustainable and is accordingly quashed.

In the result, these writ petitions are allowed directing the Returning Officer to accept the nominations of the Petitioners in these writ petitions enabling them to contest the election in terms of Ext. P-1 notification.

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