

(2012) 11 KL CK 0110

In the High Court Of Kerala

Case No : Writ Petition (C) No. 25238 of 2012 (D)

K.C. Joseph and Ajitha P.K.

APPELLANT

Vs

The State Co-Operative Election Commission, The Returning Officer of Padijarathara Service Co-Operative Bank Ltd., The Electoral Officer of Padijarathra Service Co-Operative Bank Ltd. and Padinjarathara Service Co-Operative Bank Limited

RESPONDENT

Date of Decision : 02-11-2012

Acts Referred:

Citation : (2012) 11 KL CK 0110

Hon'ble Judges : Harun-UI-Rashid, J

Bench : Single Bench

Advocate : John K. George, Sri. E.C. Bineesh and Smt. M.B. Shyni, for the Appellant; D. Somasundaram, Spl. Government Pleader R2 and R3, for the Respondent

Final Decision : Dismissed

Judgement

Harun-UI-Rashid, J.—Heard the learned counsel for the petitioner and learned Special Government Pleader for the respondents. The writ petition is filed seeking a direction challenging the order rejecting the petitioners complaint regarding exclusion of their names in the voters list. Election to the 4th respondent Society is scheduled to be held on 10.11.2012 as per Ext.P1 notification, last date for submission of nomination paper was on 29.10.2012. The grievance pointed out is that when the draft electoral roll was published, petitioners names and other 845 members who were enrolled along with the petitioners in the year 1999 did not figure in the list. The 1st petitioner had filed a detailed objection before the 3rd respondent on 18.10.2012. The grievance now projected in the writ petition is the non-inclusion of 845 members including the petitioners in the draft electoral roll. Election process is going on and the last date fixed for submission of nomination papers was on 29.10.2012. That date is also over.

2. The learned counsel for the 3rd respondent placed reliance on the decision of

the Supreme Court in Shri Sant Sadguru Janardan Swami (Moingiri Maharaj) Shri Sant Sadguru Janardan Swami (Moingirid Maharaj) Sahakari Dugdha Utpadak Sanstha and Another Vs. State of Maharashtra and Others, . In paragraph 9 of the said decision the Apex Court held as follows:

In view that the preparation of electoral roll is part of the election process and if there is any breach of the Rules in preparing the electoral roll, the same can be called in question after the declaration of the result of the election by means of an election petition before the Tribunal.

In the light of the said dictum laid down by the Apex Court, this Court is of the view that the contention raised by the petitioner in the writ petition can be agitated before the Registrar of Co-operative Societies under Rule 136 of the Co-operative Societies Rules. Therefore, it is not necessary to go into the merits of the contentions raised by the petitioners at this stage.

The writ petition is therefore, dismissed.