
(2010) 09 KL CK 0124

In the High Court Of Kerala

Case No : Writ Petition (C) No. 28828 of 2010 (C)

K.K. Balan and Others

APPELLANT

Vs

The State Election Commission and Others

RESPONDENT

Date of Decision : 17-09-2010

Acts Referred:

Kerala Panchayat Raj Act, 1994 — Section 10, 11

Citation : (2010) 09 KL CK 0124

Hon'ble Judges : P.N.Ravindran, J

Bench : Single Bench

Advocate : K.K. Jayaraj Nambiar, for the Appellant; No Appearance, for the Respondent

Final Decision : Dismissed

Judgement

P.N. Ravindran, J.—The petitioners, who claim to be residents of Velom Grama Panchayat in Kozhikode Revenue District, have filed this writ petition seeking the following main reliefs:

- i. Issue a writ of mandamus or any other appropriate writ, order or direction directing the respondent to consider and pass orders on Exhibits P4, P5, P7 and P9 representations submitted by the petitioners before finalising the voters" list.
- ii. Issue a writ of mandamus or any other appropriate writ, order or direction commanding the respondents to see that the petitioners are facilitated to cast their votes in their respective wards in which they actually reside and delimited as per Ext.P1, irrespective of the present draft voters" list wrongly published.

The petitioners claim that Exts.P4, P5, P7 and P9 are representations filed by them invoking the power of the State Election Commission/State Delimitation Commission u/s 11 of the Kerala Panchayat Raj Act, 1994 to rectify printing mistakes in the order made u/s 10 or any error therein arising from an inadvertent slip or omission. A mere reading of the said representations would indicate that what the petitioners seek is not the rectification of any printing

mistake in the order passed by the State Delimitation Commission u/s 10 or any error therein arising from an inadvertent slip or omission. In such circumstances the first relief prayed for by the petitioner cannot be granted. However, a reading of Exts.P4, P5, P7 and P9 would indicate that the petitioners have got objections regarding the inclusion of the names of some voters in the voters" list of various constituencies of Velom Grama Panchayat. The petitioners have also a grievance that their names find a place in the electoral roll relating to wards where they are not ordinarily residing. In my opinion, these are all matters which the petitioners will have to bring to the notice of the Electoral Registration Officer by filing appropriate individual applications in the manner prescribed in the Kerala Panchayat Raj (Registration of Electors) Rules, 1994.

2. The second relief sought is to direct the respondents to see that the petitioners are facilitated to cast their votes in the respective wards where they are actually residing. The right to vote is only a statutory right and unless the names of the petitioners are included in the electoral roll of the ward in which they are ordinarily residing, they cannot exercise that right. Therefore, the grant of the second relief would depend on the inclusion of the name of the petitioners in the voters" lists of the wards where they are ordinarily residing. If the petitioners have a grievance that their names are not included in the electoral roll of the wards in which they are ordinarily residing, their remedy is to move the Electoral Registration Officer seeking rectification of the mistakes if any in the draft voters" list and to include their names in the respective wards where they are ordinarily residing. In such circumstances the said relief also cannot be granted.

I accordingly hold that the reliefs prayed for by the petitioners cannot be granted as such. The writ petition fails and is dismissed with the observation that if the petitioners have any grievance regarding the inclusion of the names of any ineligible voters in the voters list of the respective wards in which they are ordinarily residing, it will be open to them to initiate appropriate proceedings seeking deletion of such names from the voters" list in the manner prescribed in the Kerala Panchayat Raj (Registration of Electors) Rules, 1994. Likewise if the names of the petitioners are not included in the voters" list relating to the respective wards where they are ordinarily residing, it will be open to them to seek inclusion of their names by filing appropriate individual applications in that regard before the Electoral Registration Officer. If the petitioners file such applications, the Electoral Registration Officer concerned shall take an appropriate decision thereon in accordance with law before the publication of the final electoral roll.