
(2010) 10 KL CK 0112

In the High Court Of Kerala

Case No : Writ Petition (C) . No. 31557 of 2010 (T)

K.K. Raghavan

APPELLANT

Vs

The Returning Officer, The Secretary and State Election
Commission

RESPONDENT

Date of Decision : 14-10-2010

Acts Referred:

Constitution of India, 1950 — Article 243

Citation : (2010) 10 KL CK 0112

Hon'ble Judges : T.R. Ramachandran Nair, J

Bench : Single Bench

Advocate : G. Hariharan, for the Appellant; Murali Purushothaman, SC, for the Respondent

Final Decision : Dismissed

Judgement

T.R. Ramachandran Nair, J.—The petitioner filed his nomination paper in the ensuing Grama Panchayat Election from Ward No. 12 of Vellathooval Grama Panchayat in Idukki District. The 1st respondent is the Returning Officer, who rejected the nomination, after scrutiny.

2. The reliefs sought for in the Writ Petition are the following:

(i) declare that the rejection of nomination paper of the petitioner as per the endorsement in Exhibit P2 is patently illegal and hence unsustainable.

(ii) call for the records relating to the rejection of nomination paper as per endorsement in Exhibit P2 and quash the same by the issuance of a writ of certiorari.

(iii) issue a writ of mandamus or any other appropriate writ commanding the 1st respondent to accept the nomination of the petitioner if it is otherwise found in order and permit the petitioner to contest in the election notified in Exhibit P1 for Ward No. 12 of Vellathooval Grama Panchayat in Idukki District.

3. Evidently, in the light of the bar under Article 243 O(a) and O(b) of the Constitution of India, this Court will not be justified in entertaining the Writ Petition. Article 243O(b) reads thus:

243.O-Bar to interference by courts in electoral matters.-Notwithstanding in this Constitution-

(a) xxxxxxxx xxxxxxx xxxxxxx

(b) no election to any Panchayat shall be called in question except by an election petition presented to such authority and in such manner as is provided for by or under any Law made by the Legislature of a State.

In the light of the bar of jurisdiction of this Court to entertain the election proceedings under Article 243O(b), the petitioner will have to file an election petition after the election is over before the appropriate Munsiff's Court. Leaving open the said remedy, the Writ Petition is dismissed.