

(2022) 11 KL CK 0318
In the High Court Of Kerala
Case No : Writ Petition (C) No. 38134 Of 2022

Laya Ajithkumar

APPELLANT

Vs

Returning Officer Government College Kottayam, Mc-Rd,
Kollam - Theni Highway, Moolavattom, Kottayam, Kerala, Pin
686013

RESPONDENT

Date of Decision : 28-11-2022

Acts Referred:

Citation : (2022) 11 KL CK 0318

Hon'ble Judges : Devan Ramachandran, J

Bench : Single Bench

Advocate : Manu Govind, Surin George, Parvathy.K,

Final Decision : Allowed

Judgement

Devan Ramachandran, J

1. The petitioners - who filed their nomination papers to contest the elections to the College Union of the Government College, Nattakam - have approached this Court being aggrieved by the rejection of the same, by the Returning Officer.

2. Sri.Manu Govind – learned counsel for the petitioners, pointed out that the only reason why the Returning Officer has rejected the nominations of his clients is because, in Clause 6 of it, the word “time” appearing for the 2nd time, had not been struck off. He submitted that this cannot be construed as a defect; and even if it be, it is extremely trivial; and hence that the action of the Returning Officer is illegal.

3. I notice that when this matter was considered by this Court on 25.11.2022, the following interim order had been issued, taking into account the afore submissions of Sri.Manu Govind:

“Smt. Parvathy.K.- learned Government Pleader for R1 and Sri. Surin George Ipe-learned Standing Counsel for R2 seeks time to obtain instructions.

Post on 28.11.2022.

In the meanwhile, noticing the averments in the writ petition and submissions on behalf of the learned counsel for the petitioners Sri. Manu Govind; I deem of appropriate to grant interim relief to them.

The 1st respondent- Returning Officer, is, therefore, directed to included the names of the petitioners provisionally in the ballot paper and await further orders from this court.

Post on 28.11.2022, provided the nomination papers are valid in all other respect except for the reason stated in this Writ Petition.”

4. Today, the learned Government Pleader – Smt.Parvathy K, submitted that the above interim order of this Court has been complied with and that if this Court is so inclined, the petitioners can be allowed to participate in the elections. She, however, argued that every instruction in the nomination paper is binding on the candidates and violation of the same should certainly entail its rejection.

5. The afore submissions of Smt.Parvathy K., were supported by Sri.Surin George Ipe - learned Standing Counsel for the University.

6. One can have no quarrel with the afore argument of Smt.Parvathy K., because normally, a substantive error in the nomination paper should visit it with necessary consequences.

7. However, in this case, it is discernible that even though the petitioners had clearly stated in their nomination papers that they were contesting to the post of Office Bearers for the first time, subsequently appearing the word “time” was omitted to be struck off. This would be of no consequence at all because, the words immediately prior to “time” has been struck off; and obviously, non-scoring of the same would bear no consequence at all, much less any confusion.

8. In the afore circumstances, I am certain that petitioners are entitled to relief.

Resultantly, I order this writ petition, confirming the interim order dated 25.11.2022; and thus allow the petitioners to participate in the elections without any impediment, subject to all other statutory requirements being satisfied.