
(2008) 03 KL CK 0018

In the High Court Of Kerala

Case No : Writ Petition (C) No. 38208 of 2007-W

Raju Sebastian

APPELLANT

Vs

State of Kerala and Others

RESPONDENT

Date of Decision : 10-03-2008

Acts Referred:

Citation : (2008) 2 KLJ 265 : (2009) 3 KLT 718

Hon'ble Judges : Thottathil B. Radhakrishnan, J

Bench : Single Bench

Advocate : V.C. James and George mecheril, for the Appellant; M. Sasindran and Anu Sivaraman (GP), for the Respondent

Judgement

Thottathil B. Radhakrishnan, J.—The petitioner is a member of the 6th respondent co-operative society. He filed this writ petition on 22-12-2007 challenging Ext. P2 notification issued on 21-11-2007 scheduling election to the committee of the society. The contentions raised by the petitioner are that the impugned notification proceeds on the basis that Form 6B register and other documents are unavailable and that identity cards require to be issued afresh. The petitioner further states that nobody could have voted for the election without identity cards. He attributes the non-availability of Form 6B register to acts of administrative high handedness within the society.

2. Noticing the aforesaid contentions, an advertence to Ext. P2 would show that the last date fixed for nomination was 10-12-2007 while this writ petition is filed on 22-12-2007. Nominations were filed and along with the counter affidavit of the 6th respondent, Ext. R6(a) is produced showing that in the absence of any contest, the Returning Officer had published the list of candidates a perusal of which, my show that no polling was necessary for election and the results could be declared on the basis that there was no contest. Therefore, the availability or otherwise of a form 6B register, a voters" list in terms thereof and the issuance of identity cards may be relevant only to ensure that there was participation in the election. In spite of the counter affidavit being placed on record on 4-1-2008,

the writ petitioner does not have any contention contradicting the averments therein that the candidates who had submitted nominations are those who are shown in Ext. R6(a). Therefore, it cannot be held that the election has been, in any manner, affected by the alleged absence of form 6B register even if I were to go by the last paragraph of Ext. P2 notification. The challenge to the electoral process, therefore, fails.

3. The learned counsel for the writ petitioner however stated that Ext. P3 has been placed before the Additional Registrar of Co-operative Societies (Vigilance) complaining that there has to be a consideration of the alleged absence of form 6B register. In the result, rejecting all the contentions against the election and with liberty to the Returning Officer to declare the results on the basis of Ext. R6(a), this writ petition is disposed of directing that Ext. P3 will be looked into by the second respondent and if any action is called for, the same will be considered in accordance with law. The petitioner will be informed of the decision that may be taken by the second respondent on Ext. P3. A tentative view in this regard shall be communicated to the petitioner within three months.