

(2023) 05 KL CK 0162
In the High Court Of Kerala
Case No : Writ Petition (C) No. 14437 Of 2023

Rejitha N.

APPELLANT

Vs

State Co Operative Election Commission

RESPONDENT

Date of Decision : 23-05-2023

Acts Referred:

Citation : (2023) 05 KL CK 0162

Hon'ble Judges : Gopinath P., J

Bench : Single Bench

Advocate : Nisha George George, Poonthottam, Anshin K.K, C.M.Nazar, N. Raghuraj, Sayujya, Vivek Menon, Rohith C., C.S.Sheeja

Final Decision : Disposed Of

Judgement

Gopinath P., J

1. This writ petition has been filed seeking the following reliefs:-

i) Issue a writ of certiorari calling for the records leading to Exhibit P9 and to quash the same;

ii) Issue a writ declaring that the notification issued by the 1st respondent without intimating each members in the voter's list, the particulars of notification by registered post with acknowledgment or speed post or through courier service approved by the High Court of Kerala / Government of Kerala or in person to be duly acknowledged is bad in law.

2. Ext.P9 is an election notification dated 10.04.2023 issued by the State Co-operative Election Commission.

3. When this matter is taken up for consideration today, it is not disputed before me that the election pursuant to Ext.P9 notification has already taken place and a new committee has already assumed charge of management of the 4th respondent Society.

4. The learned counsel appearing for the petitioner would submit that the writ petition is not infructuous in the light of the fact that the election pursuant to Ext.P9 was made subject to the result of the writ petition by interim order dated 02.05.2023. It is submitted that the disqualification of certain members of the then Managing Committee and the appointment of the Administrator (owing to lack of Quorum) is under challenge in W.P(C)No.41307 of 2022. It is submitted that the very issuance of the election notification and the subsequent election which has been held will have to be subject to the orders to be passed in that writ petition. In other words, it is submitted that if the disqualification is set aside, the appointment of an Administrator and the consequent conduct of election will have to be declared null and void.

5. The learned counsel appearing for respondents 4 and 5 would point out that the adjudication of W.P(C)No.41307 of 2022 can be only after hearing the newly elected Managing Committee members also.

6. Having heard the learned counsel for the petitioner, the learned Senior Government Pleader appearing for the official respondents, the learned Standing Counsel appearing for the State Co-operative Election Commission and the learned counsel appearing for respondents 4 and 5, I am of the view that in the light of the fact that the election pursuant to Ext.P9 notification has already been held, nothing further survives for consideration in this writ petition. Even without the interim order dated 02.05.2023 in this writ petition, it is clear that the conduct of election will always be subject to the orders to be passed in the connected writ petition namely, W.P(C)No.41307 of 2022.

Accordingly this writ petition is closed, making it clear that the conduct of election pursuant to Ext.P9 will always be subject to the orders to be passed in W.P(C)No.41307 of 2022. If any third party interests are involved, it will always be open to the petitioner to implead the necessary parties in W.P(C)No.41307 of 2022.