

(2010) 08 KL CK 0186

In the High Court Of Kerala

Case No : R.P. No. 700 of 2010 in W.P.C. No. 19253 of 2010

T.N. Prathapan

APPELLANT

Vs

Sri Khalid Mundappilly

RESPONDENT

Date of Decision : 13-08-2010

Acts Referred:

Citation : (2010) 08 KL CK 0186

Hon'ble Judges : P.S. Gopinathan, J;C.N. Ramachandran Nair, J

Bench : Division Bench

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

Final Decision : Dismissed

Judgement

C.N. Ramachandran Nair, J.—This is a review petition filed by a sitting MLA of the Kerala Assembly. We have heard Senior Counsel Sri. K. Ramakumar appearing for the petitioner and Counsel appearing for the respondent including additional respondents impleaded. Even though petitioner is elected under Congress ticket, on our question, Counsel specifically stated that petitioner is not representing his party and review petition is filed in his individual capacity. The grounds raised are almost the same or similar to the grounds raised in the Review Petition filed by the State. We dismissed the Review Petition filed by the State vide our order passed today in R.P. No. 670 of 2010. Therefore we do not wish to reconsider those grounds though Senior Counsel appearing for the petitioner raised the very same grounds. One another point raised by Senior Counsel appearing for the petitioner is that prohibition of meetings on roadside contained in the judgment prohibits holding of meeting in Maidans or vacant grounds on roadside. In our view, this ground is raised only on a misunderstanding of the judgment by the review petitioner. In fact, State in their review petition does not have a case that the judgment prohibits meetings in Maidans on roadside. In any case, for the sake of this review petitioner, we clarify the judgment by stating that roadside at one or two places referred to in the judgment is nothing but road margins referred at other places in the judgment and does not take in any maidan or

ground by the side of any road. In fact, road margin is only the narrow space provided on either side of the tarred portion of the road for use by padestrians, animals, etc. Referring to the observation in the judgment under review that meetings should be held in auditoriums, or vacant land or grounds including school play grounds available on holidays, the contention of the petitioner's Counsel is that in petitioner's constituency, that is in Nattika, there are no grounds available. We are unable to accept this position because Nattika Constituency in Trichur District is not known as a backward area in the State. Schools are spread all over the State and petitioner's contention that there is no open space in his constituency for holding meeting is not convincing. In any case, if the petitioner's constituency is thoroughly a backward constituency, it is for the petitioner to take up the matter with local authority or Government for acquiring land for construction of maidans or auditoriums. Non-availability of maidan or auditorium for holding meetings will not justify holding of meetings on public roads and road margins, which we have found in our order in R.P. No. 670 of 2010 as impermissible. We therefore dismiss this Review Petition.