

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

SATURDAY, THE 03RD DAY OF APRIL 2021/13TH CHAITHRA, 1943

WP(C).No.8890 OF 2021

PETITIONERS:

- 1 E.M.AUGUSTHY, CANDIDATE,
UDUMBANCHOLA LEGISLATIVE ASSEMBLY
CONSTITUENCY, IDUKKI DISTRICT,
RESIDING AT EDAMANAKKUNNEL HOUSE,
THOVARAYAR P.O., IDUKKI DISTRICT.
- 2 D.KUMAR, CANDIDATE, DEVIKULAM
LEGISLATIVE ASSEMBLY CONSTITUENCY,
IDUKKI DISTRICT, RESIDING AT
TANDUM HOUSE, OLD MUNNAR P.O.,
MUNNAR, IDUKKI DISTRICT - 685 612.
- 3 CYRIAC THOMAS, S/O.LATE THOMAS,
AGED 56 YEARS, CANDIDATE, PEERUMEDU
LEGISLATIVE ASSEMBLY CONSTITUENCY,
IDUKKI DISTRICT, RESIDING AT 9/917,
KALARICKAL HOUSE, ELAPPARA VILLAGE,
ELAPPARA P.O., PEERUMEDU, IDUKKI DISTRICT.

BY ADVS.

SRI.GEORGE POONTHOTTAM (SR.)

SMT.NISHA GEORGE

SRI.A.L.NAVANEETH KRISHNAN

RESPONDENTS:

- 1 THE ELECTION COMMISSION OF INDIA,
NIRVACHAN SADAN, ASHOKA ROAD,
NEW DELHI - 110 001,
REPRESENTED BY ITS SECRETARY.
- 2 THE CHIEF ELECTORAL OFFICER, KERALA,
ELECTION DEPARTMENT, KERALA LEGISLATIVE COMPLEX,
VIKAS BHAVAN P.O., THIRUVANANTHAPURAM - 695 033.
- 3 THE RETURNING OFFICER, NO.89,
UDUMBANCHOLA ASSEMBLY CONSTITUENCY,
(DEPUTY COLLECTOR(REVENUE RECOVERY)),
PAINAVU, IDUKKI - 685 601.

- 4 THE RETURNING OFFICER, NO.88,
DEVIKULAM ASSEMBLY CONSTITUENCY,
(SUB COLLECTOR, DEVIKULAM) ,
IDUKKI DISTRICT - 685 601.
- 5 THE RETURNING OFFICER, NO.92,
PEERUMEDU ASSEMBLY CONSTITUENCY,
ASSISTANT CARDAMOM SETTLEMENT OFFICER,
(DEPUTY COLLECTOR, PEERUMEDU) ,
IDUKKI DISTRICT - 685 531.

R1-R5 BY ADV. SHRI.DEEPULAL MOHAN, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 03.04.2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 3rd day of April, 2021

The petitioners are candidates in the upcoming Legislative Assembly Elections notified to be held on 06.04.2021. They are contesting from Udumbanchola, Devikulam and Peerumedu Assembly Constituencies in Idukki District. All these three constituencies are bordering the State of Tamil Nadu.

2. The petitioners submit that it is the experience in the past that large number of persons whose names are included in the voters list of Assembly Constituencies in the State of Tamil Nadu, cross borders of Tamilnadu and comes to Kerala for casting votes in the Assembly Constituencies in Kerala. Such bogus votes seriously affect the electoral process. The respondents are aware of this situation where large number of persons coming from bordering State to cast bogus votes in Kerala.

3. It is the contention of the learned Senior Counsel for the petitioners that some measures are taken by the respondents like blockade of border roads. But such blockade on roads by the Police, are removed after some time and bogus voters are permitted to cross over to Kerala and cast votes on polling dates. In such circumstances, the learned Senior Counsel for the petitioner urged that there shall be deployment of Central Forces during the polling date of Legislative Assembly Elections, which would prevent any possibility of bogus voters crossing the borders to Kerala.

4. The learned Standing Counsel for the Election Commission of India pointed out that during the 2016 Legislative Assembly Elections, one Kannan Kamaraj approached this Court filing WP(C)No. 17305/2016. In the said writ petition, respondents filed a statement wherein it was stated that the people who need to cross the border for genuine reasons would be allowed to travel after proper verification of their identities and the sealing of the check

post would not result in prohibition of all movement as apprehended by the petitioner therein.

5. The District Collector, Idukki has issued a communication to the Chief Election Commissioner, Thiruvnanthapuram explaining the steps taken to prevent bogus votes likely to be cast by persons coming from the neighbouring States. Paragraph 9 of the said letter dated 02.04.2021 reads as follows:

"വോട്ടെടുപ്പ് ദിവസവും തലേ ദിവസവും നിരീക്ഷണത്തിനായി അതിർത്തികളിൽ കേന്ദ്ര സായുധ പോലീസ് സേനയെ സ്റ്റാറ്റിക് ടീമുകളായി വിന്യസിക്കുകയും അവ ചെക്ക് പോസ്റ്റുകളിൽ ലഭ്യമാക്കുന്നതിനും നടപടികൾ സ്വീകരിച്ചിട്ടുണ്ട്."

7. Therefore, it is evident that the District Electoral Officer has already decided to deploy Central Armed Police as Static Teams in the check posts on the date of polling as well as on the pre-poll day. The District Police Chief, Idukki, in letter dated 02.04.2021 to the District Collector, Idukki

has stated that on pre-poll day and on polling day, Central Armed Police Forces will be deployed as static teams in the four border stations and they will also be made available in the check posts.

It is therefore evident that the respondents have taken possible steps to prevent bogus voting by persons coming from across the border. Therefore, the writ petition is disposed of recording the said steps taken by the District Electoral Officer and District Police Chief. Such decision will be implemented without fail.

Sd/-
N. NAGARESH
JUDGE

APPENDIX

PETITIONERS' EXHIBITS:

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| EXHIBIT P1 | TRUE COPY OF THE RELEVANT PORTION OF THE VOTERS LIST PUBLISHED BY THE ELECTION COMMISSION FOR UDUMBANCHOLA ASSEMBLY CONSTITUENCY IN KERALA. |
| EXHIBIT P2 | TRUE COPY OF THE LETTER DATED 22/03/2021 SUBMITTED BY THE 1ST PETITIONER TO THE ELECTION OBSERVER. |
| EXHIBIT P3 | TRUE COPY OF THE REPRESENTATION SUBMITTED TO THE STATE ELECTION COMMISSION DATED 31/03/2021. |
| EXHIBIT P4 | TRUE COPY OF THE REPRESENTATION DATED 31/03/2021 SUBMITTED BY THE 1ST PETITIONER BEFORE THE KERALA STATE ELECTION COMMISSION. |
| EXHIBIT P5 | TRUE COPY OF THE REPRESENTATION DATED 31/03/2021 SUBMITTED BY THE 3RD PETITIONER BEFORE THE KERALA STATE ELECTION COMMISSION. |
| EXHIBIT P6 | TRUE COPY OF THE REPRESENTATION DATED 31/03/2021 SUBMITTED BY THE 2ND PETITIONER BEFORE THE KERALA STATE ELECTION COMMISSION. |
| EXHIBIT P7 | TRUE COPY OF THE JUDGMENT DATED 31/03/2021 IN W.P.(C) NO.8629/2021 PASSED BY THIS HON'BLE COURT. |