

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24044 OF 2020(E)

PETITIONER/S:

ABOOBACKER KANNIYAN
AGED 50 YEARS
S/O.MOHAMMED, KIDANGAYI, KARUVAMPURAM P.O., MANJERI,
MALAPPURAM-676 123.

BY ADVS.
SRI.K.M.FIROZ
SRI.P.C.MUHAMMED NOUSHIQ
SHRI.ABDUL KAREEM N.
SMT.M.SHAJNA
SRI.E.C.AHAMED FAZIL

RESPONDENT/S:

- 1 KERALA STATE ELECTION COMMISSION
JANAHITHAM TC 27/6(2), VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM-695 033.
- 2 THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
- 3 THE SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT,
THE GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
- 4 THE DISTRICT COLLECTOR, MALAPPURAM,
CIVIL STATION, MALAPPURAM-676 505.
- 5 MANJERI MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, MANJERI P.O., MALAPPURAM-
676 121.

R1 BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP
ADV.SHRI.R.RENJITH

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13.11.2020, ALONG WITH WP(C).24048/2020(E) AND CONNECTED CASES, THE
COURT 16.11.2020 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24048 OF 2020(E)

PETITIONER/S:

MOHAMMED ALIAS CHERI.C.T.
AGED 34 YEARS
S/O ALAVI, CHEERANTHODIKA HOUSE, CHETTIAYRAMAMAL
P.O.WANDOOR, MALAPPURAM-679 328.

BY ADVS.
SRI.K.M.FIROZ
SRI.P.C.MUHAMMED NOUSHIQ
SHRI.ABDUL KAREEM N.
SMT.M.SHAJNA
SRI.E.C.AHAMED FAZIL

RESPONDENT/S:

- 1 KERALA STATE ELECTION COMMISSION
JANAHITHAM TC 27/6(2), VIKAS BHAVAN
P.O.THIRUVANANTHAPURAM-695 033.
- 2 THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
- 3 THE SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, THE GOVERNMENT OF
KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695
001.
- 4 THE DISTRICT COLLECTOR,
MALAPPURAM, CIVIL STATION, MALAPPURAM-676 505
- 5 WANDOOR GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, WANDOOR, MALAPPURAM-679
328.

R1 BY ADV. SRI.MURALI PURUSHOTHAMAN
R1 BY SHRI.MURALI PURUSHOTHAMAN, SC,K.S.E.COMM
R5 BY ADV. SRI.VINOD RAVINDRANATH
R5 BY ADV. SMT.MEENA.A.

GP SHRI C.M.NAZAR SPL.GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12.11.2020, ALONG WITH WP(C).24044/2020 AND CONNECTED CASES, THE COURT
16.11.2020 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24064 OF 2020(G)

PETITIONER/S:

NOUFAL BABU E.K.
AGED 34 YEARS
S/O.KUNHIMHAMMED E.K., EYYANAMKUNAN HOUSE,
VANIYAMBALAM P.O., PARAKKULAM, MALAPPURAM - 679
339.

BY ADVS.
SRI.K.ANAND
SRI.HUSSAIN KOYA VALIYAVEEDAKATH
SRI.BENNY ANTONY PAREL
SMT.DEEPA VALENTINE LESLIE

RESPONDENT/S:

- 1 KERALA STATE ELECTION COMMISSION
JANAHITHAM T.C.27/6(2), VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM - 695 033.
- 2 THE STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
- 3 THE SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT
THE GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM -695001.
- 4 THE DISTRICT COLLECTOR
MALAPPURAM CIVIL STATION, MALAPPURAM - 676 505.
- 5 WANDOOR GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY WANDOOR, MALAPPURAM -
679 328.

BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP
ADV.SHRI.T.R.HARIKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24082 OF 2020(I)

PETITIONER/S:

AHAMMED KABEER A
AGED 52 YEARS
S/O ABDUL RAHUMAN, ,
VALUPACHAYIL HOUSE, MANJAPPARA, THALIKUZHY PO,
PULIMATH-VIA,
THIRUVANANTHAPURAM DISTRICT, PIN-695612.

BY ADVS.
SRI.BABU JOSEPH KURUVATHAZHA
SMT.K.S.ARCHANA

RESPONDENT/S:

STATE ELECTION COMMISSION
KERALA, JANAHIATHAM, TC-27/6(2), VIKAS BHAVAN, PO,
THIRUVANANTHAPURAM-695033, REPRESENTED BY ITS
SECRETARY.

R1 BY SHRI.MURALI PURUSHOTHAMAN, SC,K.S.E.COMM

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24127 OF 2020 (M)

PETITIONER/S:

BABU VARGHESE
AGED 48 YEARS
S/O VARGHESE, MANAPPILLYKUDY HOUSE, PAZHAMTHOTTAM
P.O.EIKARNAD NORTH VILLAGE, ERNAKULAM DISTRICT-683
565.

BY ADV. SRI.BIJU .C. ABRAHAM

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT, DEPARTMENT
OF LOCAL SELF GOVERNMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
- 2 THE STATE ELECTION COMMISSION,
KERALA JANAHITHAM, TC 27/6(2), VIKAS BAHVAN,
THIRUVANANTHAPURAM-695 033.
- 3 THE DISTRICT COLLECTOR,
COLLECTORATE, KAKKANAD, ERNAKULAM-682 030.
- 4 THE EIKARNAD GRAMA PANCHAYAT,
ERNAKULAM DISTRICT-683 565, REP BY ITS SECRETARY

R2 BY SHRI.MURALI PURUSHOTHAMAN, SC,K.S.E.COMM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24147 OF 2020(P)

PETITIONER/S:

INFANT THOMAS
AGED 55 YEARS
IDUKKI DISTRICT PANCHAYATH MEMBER, ADIMALY
DIVISION, IDUKKI, RESIDING A T MATTEL HOUSE,
MACHIPLAVU, ADIMALY IDUKKI 685 561.

BY ADV. SRI.P.P.JACOB

RESPONDENT/S:

- 1 THE STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM 695 001.
- 2 THE KERALA STATE ELECTION COMMISSION
OFFICE OF THE STATE ELECTION COMMISSION, JANAHITHAM
, TC 27/6(2) VIKAS BHAVAN, THIRUVANANTHAPURAM 695
033.
- 3 THE PRINCIPAL SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM 695 001.
- 4 THE DISTRICT COLLECTOR,
IDUKKI / RETURNING OFFICER TO THE ELECTION TO LOCAL
BODIES, KUYILIMALA PAINAVU, P.O. IDUKKI 685 603.

RBY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24156 OF 2020(T)

PETITIONER/S:

SIDDIKH PARAPPARA
AGED 48 YEARS
S/O.MOIDHEEN, PARAPPARA HOUSE, MOODAL, KUTTIPPURAM
P.O., MALAPPURAM-679 571.

BY ADVS.
SRI.K.M.FIROZ
SRI.P.C.MUHAMMED NOUSHIQ
SHRI.ABDUL KAREEM N.
SMT.M.SHAJNA

RESPONDENT/S:

- 1 KERALA STATE ELECTION COMMISSION
JANAHITHAM TC-27/6(2), VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM-695 033.
- 2 THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
- 3 THE SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT,
THE GOVERNMENT OF KERALA, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
- 4 THE DISTRICT COLLECTOR, MALAPPURAM,
CIVIL STATION, MALAPPURAM-676 505.
- 5 KUTTIPPURAM GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, KUTTIPPURAM,
MALAPPURAM-679 571.

BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

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THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24181 OF 2020(W)

PETITIONER/S:

ABDU RAHIM.M
AGED 55 YEARS
S/O.MOOSA HAJI MUTHERY (LATE), KOTTAPARAMBIL HOUSE,
CHIRAYIL P.O., KONDOTY, MALAPPURAM-673638.

BY ADVS.
SRI.K.M.FIROZ
SRI.P.C.MUHAMMED NOUSHIQ
SHRI.ABDUL KAREEM N.
SMT.M.SHAJNA
SRI.E.C.AHAMED FAZIL

RESPONDENT/S:

- 1 KERALA STATE ELECTION COMMISSION
JANAHITHAM TC-27/6(2), VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM-695033.
- 2 THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.
- 3 THE SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, THE GOVERNMENT OF
KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-
695001.
- 4 THE DISTRICT COLLECTOR,
MALAPPURAM, CIVIL STATION, MALAPPURAM-676505.
- 5 KONDOTTY MUNICIPALITY,
REPRESENTED BY ITS SECRETARY, KONDOTTY P.O., MALAPPURAM-
673638.

R1 BY SHRI.MURALI PURUSHOTHAMAN, SC,K.S.E.COMM
R5 BY ADV. SRI.K.A.JALEEL
GP SHRI C.M.NAZAR SPL.GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
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MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24202 OF 2020(A)

PETITIONER/S:

P.R.ROHILNATH
AGED 39 YEARS
S/O .P.V.RAMANATHAN, PULIVETTIKAVIL HOUSE,
CHEMBRESSERY EAST P.O.MALAPPURAM -679 331.

BY ADVS.
SRI.K.M.FIROZ
SRI.P.C.MUHAMMED NOUSHIQ
SHRI.ABDUL KAREEM N.
SMT.M.SHAJNA
SRI.E.C.AHAMED FAZIL

RESPONDENT/S:

- 1 KERALA STATE ELECTION COMMISSION
JANAHITHAM TC-27/6(2), VIKAS BHAVAN
P.O.THIRUVANANTHAPURAM-695 033.
- 2 THE STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
- 3 THE SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, THE GOVERNMENT OF
KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-
695 001.
- 4 THE DISTRICT COLLECTOR,
MALAPPURAM, CIVIL STATION, MALAPPURAM-676 505.
- 5 PANDIKAD GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, PANDIKAD, MALAPPURAM-
676 521.

R1 BY SHRI.MURALI PURUSHOTHAMAN, SC,K.S.E.COMM
GP SHRI C.M.NAZAR SPL.GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24253 OF 2020(F)

PETITIONER/S:

- 1 AHAMMED S.
AGED 24 YEARS
S/O. SHAJAHAN, THADATHARIKATHUVEEDU, WARD 09,
PERINGAMMALA, CHITTOR, DAIVAPURA P.O, TRIVANDRUM
 - 2 SREEJITH P,
AGED 33 YEARS
S/O. RADHA DEVI, SREEVIHAR, WARD 16, PERINGAMMALA,
KANNANCODE, KOCHUVILA P.O, TRIVANDRUM
- BY ADVS.
SRI.MATHEWS J.NEDUMPARA
SRI.P.BIJIMON
SHRI. ABDUL JABBARUDEEN.M
SHRI.KORA JOY

RESPONDENT/S:

- 1 KERALA STATE ELECTION COMMISSION
KERALA JANAHITHAM, TC 27/6(2), VIKAS BHAVAN,
THIRUVANANTHAPURAM 695 033 REPRESENTED BY ITS
SECRETARY
 - 2 THE DISTRICT COLLECTOR,
2ND FLOOR, CIVIL STATION BLDG, CIVIL STATION ROAD,
THIRUVANANTHAPURAM 695 043
- R1 BY SHRI.MURALI PURUSHOTHAMAN, SC,K.S.E.COMM
GP SHRI C.M.NAZAR SPL.GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16.11.2020, ALONG WITH WP(C).24044/2020 AND CONNECTED CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24235 OF 2020(F)

PETITIONER/S:

- 1 SHAJAHAN KADAPPALLY,
AGED 50 YEARS,
SON OF KOCHU MARAKKAR,
KADAPPALLY MOOLAYIL,
TOWN HALL EXTENSION ROAD,
CHANGAMPUZHA NAGAR P.O.,
KOCHI-682 033

BY ADVS.
SRI.RAMAPRASAD UNNI T.
SRI.S.M.PRASANTH
SHRI. RENJITH G.
SHRI.ASWINI SANKAR R.S.
SHRI.ARAVIND T.H.

RESPONDENT/S:

- 1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO
GOVERNMENT, DEPARTMENT OF LOCAL SELF GOVERNMENT
INSTITUTIONS, GOVERNMENT OF KERALA,
THIRUVANANTHAPURAM- 695 001.
- 2 THE STATE ELECTION COMMISSION,
KERALA JANAHITHAM, TC 27/6(2), VIKAS BHAVAN,
THIRUVANANTHAPURAM 695 033.
- 3 THE DISTRICT COLLECTOR, ERNAKULAM,
COLLECTORATE, CIVIL STATION,
KAKKANAD, PIN- 682 030
- 4 THE KALAMASSERY MUNICIPALITY
REPRESENTED BY ITS SECRETARY, KALAMASSERY,
ERNAKULAM DISTRICT, PIN- 682 033

BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP
ADV.SHRI.ABOOBAKAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12.11.2020, ALONG WITH WP(C).24044/2020 AND CONNECTED CASES, THE
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24340 OF 2020(N)

PETITIONER/S:

VINU S. LAL
AGED 46 YEARS
S/O. RAVEENDRAN NAIR, LAL COTTAGE, THANNIMOODU,
ELAVATTOM P.O, KURUPUZHA VILLAGE, NEDUMANGAD,
THIRUVANANTHAPURAM DISTRICT

BY ADVS.
SMT.BINITHA JAMES
SMT. PRABISHA T.P.

RESPONDENT/S:

- 1 STATE ELECTION COMMISSIONER,
PALAYAM, THIRUVANANTHAPURAM 695 033
- 2 DISTRICT COLELCTOR,
CIVIL STATION, THIRUVANANTHAPURAM 695 043
- 3 NANNIYODE GRAMA PANCHAYAT,
NANNIYODE P.O, THIRUVANANTHAPURAM REPRESENTED BY
ITS SECRETARY 695 562

BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12.11.2020, ALONG WITH WP(C).24044/2020 AND CONNECTED CASES, THE
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24440 OF 2020(D)

PETITIONER/S:

JESTIN P.V.
AGED 52 YEARS
S/O. VARGHESE, PANACHIL HOUSE, PAYYAMBALLI P.O,
MUDRAMOOLA, WAYANAD DISTRICT - 670646,

BY ADVS.
SRI.JUSTINE JACOB
SMT.BINDU MOHAN
SMT.AMRUTHA P S
SMT.AMRUTHA K P
SHRI.VIJAY SANKAR V.H.

RESPONDENT/S:

- 1 STATE ELECTION COMMISSION
KERALA, CORPORATION OFFICE COMPLEX, LMS JUNCTION,
PALAYAM, THIRUVANANTHAPURAM - 695033.
- 2 MANATHAVADY MUNICIPALITY
REPRESENTED BY ITS SECRETARY, MANANTHAVADY, WAYANAD
DISTRICT - 670645.
- 3 REGIONAL JOINT DIRECTOR OF URBAN AFFAIRS,
DEPARTMENT OF URBAN AFFAIRS, 17/2094 GH BAZAR,
PALAYAM, KOZHIKODE - 673001.

BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP
ADV.SHRI.K.S.ARUN KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24503 OF 2020(K)

PETITIONER/S:

A. YARSHAD
AGED 38 YEARS
S/O.ABDUL JAMAL, JALEEL MANZIL, MAVARTHALA,
CHEKKAKONAM, POST KARAKULAM-695 564,
THIRUVANANTHAPURAM DISTRICT.

BY ADV. SRI.SANTHEEP ANKARATH

RESPONDENT/S:

- 1 STATE ELECTION COMMISSIONER
KERALA, CORPORATION OFFICE COMPLEX, LMS JUNCTION
PALAYAM, THIRUVANANTHAPURAM-695 033.
- 2 KARAKULAM GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY, NEDUMANGAD ARUVIKKARA
ROAD, KARAKULAM, THIRUVANANTHAPURAM DISTRICT, PIN-
695 564.

BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24582 OF 2020(W)

PETITIONER/S:

K. RADHAKRISHNAN NAIR
AGED 63 YEARS
S/O.KUNJAN PILLAI, RAGAM, PANKONAM,
THRIKKOVILVATTOM, MUKHATHALA P.O., KOLLAM - 691
577.

BY ADVS.
SRI.BIJITH S.KHAN
SRI.N.ANAND

RESPONDENT/S:

- 1 THE STATE OF KERALA
DEPARTMENT OF LOCAL SELF GOVERNMENT INSTITUTIONS,
SECRETARIAT ANNEXE, THIRUVANANTHAPURAM - 695 001
REPRESENTED BY ITS PRINCIPAL SECRETARY.
- 2 STATE ELECTION COMMISSION
KERALA, CORPORATION OFFICE COMPLEX, L.M.S.JUNCTION,
NEDUMANGAD, THIRUVANANTHAPURAM - 695 033,
REPRESENTED BY ITS SECRETARY.
- 3 THE REGIONAL JOINT DIRECTOR OF URBAN AFFAIRS
RSNRA-29, Q.A.C.ROAD, KARBALA, KOLLAM, KERALA - 691
001.
- 4 THE THRIKKOVILVATTOM GRAMAPANCHAYAT
MUKHATHALA P.O., KOLLAM - 691 577 REPRESENTED BY
ITS SECRETARY.

R4 BY ADV. SRI.V.RENJITH KUMAR
BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24694 OF 2020(J)

PETITIONER/S:

O.HUSSAIN
AGED 51 YEARS
S/O. MOOSA, OLONGAL HOUE, PANTHEERPADAM,
KUNNAMANGALAM P.O., KOZHIKODE DISTRICT-673 571.

BY ADVS.
SRI.M.MUHAMMED SHAFI
SMT.T.RASINI

RESPONDENT/S:

- 1 KERALA STATE ELECTION COMMISSION
JANAHITHAM TC-27/6(2), VIKAS BHAVAN P.O.,
THIRUVANANTHAPURAM-695 033.
- 2 THE STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001.
- 3 THE SECRETARY
LOCAL SELF GOVERNMENT DEPARTMENT, THE GOVERNMENT OF
KERALA, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-
695 001.
- 4 THE DISTRICT COLLECTOR
KOZHIKODE, CIVIL STATION, KOZHIKODE-673 020.
- 5 KUNNAMANGALAM GRAMA PANCHAYATH
REPRESENTED BY ITS SECRETARY, KUNNAMANGALAM,
KOZHIKODE-673 571.

BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12.11.2020, ALONG WITH WP(C).24044/2020 AND CONNECTED CASES, THE
COURT 16.11.2020 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24726 OF 2020(M)

PETITIONER/S:

SIVADASAN
AGED 54 YEARS
S/O.BALAKRISHNAN, PLAMTHUNDIL VEEDU, KADAMBANADU
NORTH (PO), ADOOR TALUK, PATHANAMTHITTA DISTRICT.

BY ADVS.
SRI.M.V.THAMBAN
SRI.R.REJI
SMT.THARA THAMBAN
SRI.B.BIPIN
SRI.ARUN BOSE

RESPONDENT/S:

- 1 STATE OF KERALA
REPRESENTED BY THE SECRETARY TO THE GOVERNMENT,
DEPARTMENT OF LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.
- 2 THE STATE ELECTION COMMISSION, KERALA,
CORPORATION OFFICE COMPLEX, LMS JUNCTION, PALAYAM,
THIRUVANANTHAPURAM, PIN-695 033, REPRESENTED BY THE
STATE ELECTION COMMISSIONER.
- 3 THE DISTRICT COLLECTOR,
PATHANAMTHITTA, COLLECTORATE (PO), PATHANAMTHITTA
DISTRICT, PIN-689 645.
- 4 KADAMPANADU GRAMA PANCHAYAT,
PATHANAMTHITTA, KADAMPANADU P.O., PATHANAMTHITTA
DISTRICT, PIN-691 552, REPRESENTED BY ITS
SECRETARY.

BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
12.11.2020, ALONG WITH WP(C).24044/2020 AND CONNECTED CASES, THE
COURT 16.11.2020 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24798 OF 2020(Y)

PETITIONER/S:

DIBIN T.
AGED 35 YEARS
S/O.THILAKAN, PUTHANPURAYIL HOUSE, EROOR SOUTH,
THRIPUNITHURA, EROOR, ERNAKULAM DISTRICT - 682306.

BY ADVS.
SRI.SAJEEV KUMAR K.GOPAL
SMT.ASWATHY BABU

RESPONDENT/S:

- 1 THE STATE ELECTION COMMISSION
KERALA CORPORATION OFFICE COMPLEX, LMS JUNCTION,
PALAYAM, THIRUVANANTHAPURAM - 695 003.
- 2 THE THRIPUNITHURA MUNICIPALITY
REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE,
THRIPUNITHURA - 682 301.

BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP
ADV.SHRI.MANUVILSON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13.11.2020, ALONG WITH WP(C).24044/2020 AND CONNECTED CASES, THE
COURT 16.11.2020 DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C) .No.24893 OF 2020 (J)

PETITIONER/S:

ROBIN THOMAS
AGED 36 YEARS
S/O.THOMAS, NARIPPARAYIL, ATTAPPALLAM, ATTAPPALLAM, KUMILY,
IDUKKI-685509.

BY ADVS.
SRI.C.S.AJITH PRAKASH
SHRI.BABU M.
SMT.ANCY THANKACHAN
SHRI.NIDHIN RAJ VETTIKKADAN
SRI.HAARIS MOOSA
SMT.DEVYANI

RESPONDENT/S:

- 1 KERALA STATE ELECTION COMMISSION
CORPORATION OFFICE COMPLEX, LMS JUNCTION, PALAYAM,
THIRUVANANTHAPURAM-695033, REPRESENTED BY ITS SECRETARY.
- 2 DISTRICT COLLECTOR,
IDUKKI/DISTRICT ELECTION OFFICER, OFFICE OF THE DISTRICT
COLLECTOR, COLLECTORATE, KUYILIMALAM PAINAV P.O., IDUKKI-
685603.
- 3 STATE OF KERALA,
REPRESENTED BY CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.
- 4 KUMILY GRAMA PANCHAYATH,
KUMILY GRAMA PANCHAYATH P.O., IDUKKI DISTRICT, PIN-685509,
REPRESENTED BY ITS SECRETARY.
- 5 THE SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, THE GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.

BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP
ADV.LIJI.J.VADAKEDOM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12.11.2020,
ALONG WITH WP(C).24044/2020 AND CONNECTED CASES, THE COURT 16.11.2020
DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

MONDAY, THE 16TH DAY OF NOVEMBER 2020 / 25TH KARTHIKA, 1942

WP(C).No.24906 OF 2020(K)

PETITIONER/S:

ALIAS K. PAUL
AGED 30 YEARS
S/O.POULOSE, PANICHIL HOUSE, PARAPEEDIKA,
EYKARANAD, ERNAKULAM DISTRICT

BY ADV. SRI.BIJU .C. ABRAHAM

RESPONDENT/S:

- 1 STATE OF KERALA
REP.BY SECRETARY TO GOVERNMENT, DEPARTMENT OF LOCAL
SELF GOVERNMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001
- 2 THE STATE ELECTION COMMISSION
KERALA JANAHITHAM, TC 27/6(2), VIKAS BHAVAN,
THIRUVANANTHAPURAM-695 033
- 3 THE DISTRICT COLLECTOR
COLLECTORATE, KAKKANAD, ERNAKULAM-682 030
- 4 THE EYKARANAD GRAMA PANCHAYAT
ERNAKULAM DISTRICT-682 311

OTHER PRESENT:

BY ADV. SRI.MURALI PURUSHOTHAMAN
GP SHRI C.M.NAZAR SPL.GP
ADV.N.K.PAULOSEKUTTY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
13.11.2020, ALONG WITH WP(C).24044/2020 AND CONNECTED CASES, THE
COURT 16.11.2020 DELIVERED THE FOLLOWING:

W.P.(C).Nos. 24044, 24048, 24064, 24082, 24127, 24147,
24156, 24181, 24202, 24235, 24253, 24340, 24440, 24503,
24582, 24694, 24726, 24798, 24893 & 24906 of 2020

J U D G M E N T

Dated this the 16th day of November 2020

These writ petitions raise a question on the legality of the consecutive or successive reservation for the office of Chairpersons and Presidents in the local bodies in the forthcoming general election.

2. The State Election Commission issued a notification on 3/3/2020 reserving the post of Chairpersons and Presidents of local authorities for SC/ST and women. The general election to the local authorities was announced on 6/11/2020 and notified by the Election Commission on 12/11/2020. The election has to be completed in different phases. The declaration of election is scheduled on

W.P.(C).Nos.24044/2020 and connected cases

-:2:-

16/12/2020. The challenge made in all these writ petitions is that consecutive or successive reservation of office of Chairperson of the local body without following rotation is violative of Article 243-D(4) read with Article 14 of the Constitution of India.

3. There is no dispute to the fact that the Election Commission was constrained to reserve the post of Chairpersons consecutively on account of implementation of the statutory provisions under the Kerala Panchayat Raj Act, 1994 and the Kerala Municipality Act, 1994. The implementation of the statutory provisions necessarily would result in a consecutive reservation for the reason that the statutory provisions contemplate combined reservation for SC/ST and women beyond 50%. However, in the Constitution, the reservation was contemplated for not less than 30%.

4. This Court in these writ petitions is called upon to carry out an exercise under the statutory provisions within the constitutional mandate of providing reservation of not less than one third to SC/ST and women. It is apposite to refer Article 243-D of the Constitution which reads thus:

W.P.(C).Nos.24044/2020 and connected cases

-:3:-

243-D. Reservation of seats: 243-D. (1) Seats shall be reserved for—

- (a) the Scheduled Castes; and
- (b) the Scheduled Tribes,

in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

(2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.

(3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.

(4) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide:

Provided that the number of offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in the Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State:

Provided further that not less than one third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women:

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

(5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.

W.P.(C).Nos.24044/2020 and connected cases

-:4:-

(6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

5. It is also appropriate to refer the relevant portion of Section 153 of the Panchayat Raj Act, which reads thus:

153. Election of President and Vice-President.- (1) In every Panchayat there shall be a President and a Vice-President elected from among the elected members of that Panchayat in accordance with the provisions of this Act and the president shall be Full-time functionary of the Panchayat.

(2) On the constitution of a panchayat or on its reconstitution under any provision of this Act, there shall be called a meeting by the Returning Officer referred to in sub-section (6) for the election of its President and Vice-President from among the elected members of that Panchayat.

(3) (a) The offices of President of Village Panchayats, Block Panchayats and District Panchayats in the State shall be reserved by the Government for the Scheduled Castes and the Scheduled Tribes and the number of the offices of President reserved for Scheduled Castes and Scheduled Tribes in the panchayats at each level in the state shall bear, as nearly as may be, the same proportion to the total number of offices of President at each level as the population of the Scheduled Castes in the State or of the Scheduled Tribes in the State bears to the total population of the State;

(b) (i) Fifty percent (in the case of fraction it shall be fixed to the next higher integer) each of the total number of offices of President of village panchayats, Block Panchayats and District Panchayats in the State reserved under clause (a); and

(ii) Fifty percent (in the case of a fraction it shall be fixed to the next higher integer) each of the total number of offices of President of village Panchayats, Block Panchayats and District Panchayats in the State, not so reserved, shall be reserved by the Government, for women.

(4)(a).- The offices of the President reserved under sub-section (3) shall be allotted to every level of the Panchayat in the different districts by the State Election Commission by notification in the Gazette.

W.P.(C).Nos.24044/2020 and connected cases

-:5:-

(b) In the case of Block Panchayats and Village Panchayats the reserved seats for the Scheduled Castes and Scheduled Tribes shall be allotted proportionate to their population in the respective districts.

(c) In the case of Village Panchayat, the reserved seats in each district shall be distributed among the Village Panchayats within the area of the various Block Panchayats in the district.

(d) Before issuing notification for General election, the State Election Commission shall allot by rotation the reserved seats under clause (a), (b) and (c) and the rotation shall start from the Panchayat in which the Scheduled Castes or Scheduled Tribes or women have the largest percentage of population and then passed on to the next panchayat having their largest percentage of population and so on:

(e) In the case of an election to the office of the President reserved for Scheduled Castes or Scheduled Tribes, a member, if he is not a person elected from a seat reserved for Scheduled Castes or Scheduled Tribes as the case may be, shall not be eligible for election to the office of the President, unless he produces before the Retiring Officer a community certificate issued by a competent officer stating that he is a member of the Scheduled Caste or Scheduled Tribe;

(f) A member elected to the office of the President reserved for Scheduled Castes or Scheduled Tribes who has been proved under the Kerala (Scheduled Castes and Scheduled Tribes) Regulation of Issue of Community Certificates Act, 1996 (11 of 1996) or under any other law for the time being in force, that he does not belong to Scheduled Caste or Scheduled Tribe, as the case may be, and declared as such he shall not be entitled to continue in office of the President from the date of such declaration and his membership shall stand forfeited and the State Election Commission shall declare the offices of the President and the member to be vacant.

Provided that where the Panchayat the office of President of which is to be reserved for women and the Scheduled Castes and Scheduled Tribes is one and the same; in so reserving the Office of President, preference shall be given to the Scheduled Castes or the Scheduled Tribes and in lieu, the office of the President in the Panchayat not having their largest percentage population of women shall be reserved for women:

Provided further that in Panchayats the office of President of which is reserved for the Scheduled Caste or Scheduled Tribes, those in which the women have the more percentage of population

W.P.(C).Nos.24044/2020 and connected cases

-:6:-

of women shall be reserved for women belonging to them:

Provided also that the office of President of any panchayat shall be reserved for the Scheduled Caste or Scheduled Tribes or women belonging to them only if at least one constituency of that Panchayat is reserved for that category.

6. In the Kerala Municipality Act, under Section 10, 'reservation' is provided as follows:

10. Mayor or Chairman of a Municipality.— (1) There shall be a Chairman in every Town Panchayat and Municipal Council and a Mayor in every Municipal Corporation who shall be elected by the elected Councillors of the respective Municipalities from among themselves, in such manner as may be prescribed. The Chairperson shall be a full-time functionary of the Municipality.

(2) Such number of the offices of Chairmen of Town Panchayats, Chairmen of Municipal Councils and Mayor of Municipal Corporations shall be reserved for the Scheduled Castes or, as the case may be, the Scheduled Tribes by the Government and the offices of the Chairmen of the Town Panchayats, Chairmen of the Municipal Councils and Mayor of the Municipal Corporations so reserved may be allotted by rotation to different Town Panchayats, Municipal Councils or, as the case may be, the Municipal Corporations as the State Election Commission may, by notification in the Gazette, determine for each general election.

(3) The total number of offices of Chairmen in the Town Panchayats, Chairmen in the Municipal Councils or Mayor of the Municipal Corporations, as the case may be, to be reserved for the Scheduled Castes and the Scheduled Tribes under sub-section(2) shall bear as nearly as may be, the same proportion to the total number of offices of Chairmen in the Town Panchayats, Chairmen of the Municipal Councils or Mayor of the Municipal Corporations, as the case may be, as the population of the Scheduled Casts or as the case may be, the Scheduled Tribes, in the Municipalities in the State bear to the total population of the Municipalities.

(4) Fifty percent(in the case of fraction, it shall be fixed to the next higher intefer) of the offices of the Chairpersons in the Town Panchayats, Municipal Councils and Municipal Corporations reserved under sub-section (2), shall be set apart by Government for women belonging to Scheduled Castes, or as the case may be, Scheduled Tribes

W.P.(C).Nos.24044/2020 and connected cases

-:7:-

and for each general election the seats so reserved shall be allotted by the State Election Commission, by notifications in the Gazette, to different Town Panchayats or Municipal Councils or Municipal Corporations, as the case may be, by rotation:

Provided that where the number of offices of Chairpersons reserved for the Scheduled Castes or as the case may be, the Scheduled Tribes under sub-section (2) is one, that seat need not be reserved for women belonging to the Scheduled Castes or as the case may be, the Scheduled Tribes.

(5) Fifty percent (in the case of Fraction, it shall be fixed to the next higher integer) of the total number of offices of the Chairpersons in the Town Panchayats, Municipal Councils and Municipal Corporations, shall be reserved for women by the Government and the seats so reserved shall be allotted by the State Election Commission including those reserved under sub-section (4), by rotation to different Town Panchayats, Municipal Councils and Municipal Corporations, as the case may be.

7. As seen from Section 153(4)(d), the Election Commission have to allot rotation of the reserved seats before issuance of the notification for the general election.

8. If the statutory provisions are as such adhered to as noted above, it would result in reservation beyond 50%. When this Court put a query to the learned Standing Counsel, Shri Murali Purushothaman appearing for the Election Commission as to the percentage of reservation, he gave a rough estimation of the percentage of reservation for the coming election as around 67%. This has resulted in filing

W.P.(C).Nos.24044/2020 and connected cases

-:8:-

these writ petitions stating that reservation is without following the rotation as envisaged under the third proviso to Article 243-D(4).

9. As seen from Article 243-D, rotation of reservation to the different local authorities in the State is not a difficult task. The prescription of 'reservation' under the Constitution is not less than one-third of the total number of offices of the Chairpersons for women. As far as the Chairpersons reserved for SC/ST under the Constitution, the reserved seats shall bear the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Caste or the Scheduled Tribes in the State bears to the population of the State.

10. However, under the Kerala Panchayat Raj Act and the Kerala Municipality Act, different yardsticks have been provided for reservation of office. As far as women, the prescription is 50% for the offices of the local authorities. Similarly, 50% based on the representation of Scheduled Castes and Scheduled Tribes as referred under Section 153(3)(a) of the Kerala Panchayat Raj Act. That

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-:9:-

makes the total reservation beyond 50% to the offices of Chairpersons, President etc.

11. If the statutory provisions are as such adhered to, that will render the third proviso to Article 243-D(4) as inoperative. This is exactly that happened in all these cases. By adhering to the statutory provisions and making the reservation beyond 50% resulted in a successive reservation.

12. Therefore, this Court has to balance the statutory provisions on one hand and the constitutional provision, on the other hand. The statutory provisions, if read in the light of constitutional directives, it has to be understood that 50% of reservation as referred in Section 153(3)(b)(i) and b(ii) and in Municipality Act is the maximum. What is prescribed in the Constitution is the minimum. Therefore reservation cannot go below the prescription under the Constitution and also cannot exceed the maximum provided under the statutory provisions as above. However, nothing prevents the Election Commission to reduce the number of the reservation to the offices of the Presidents or Chairpersons

W.P.(C).Nos.24044/2020 and connected cases

-:10:-

to ensure compliance of constitutional directives of rotation. That reduction cannot be less than the minimum as contemplated under Article 243-D. Therefore, the Election Commission has to ensure compliance to the constitutional directives, to bring down the percentage of reservation in such a manner to ensure rotation as referred to in the third proviso to Article 243-D(4). The Legislature was aware of the constitutional directives as above while incorporating 50% of reservation for the offices of the President or Chairpersons under Section 153 of the Kerala Panchayat Raj Act. The Court has to adopt an approach to avoid redundancy of constitutional provisions. Therefore, the only possible way for understanding the fixation of percentage of reservation to the offices of the Presidents and Chairpersons for SC/ST and women is not by negating the percentage of 50% as fixed in the Statute but interpreting the 50% fixed as above is as maximum. The Election Commission has necessary power to reduce but not to below the prescription under the Constitution, to ensure the compliance of the rotation. If not done, the exercise of

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-:11:-

choosing the Presidents or Chairpersons would militate against the constitutional directives. Further, the Constitution never contemplated reservation tied with the local authorities in perpetuity.

13. In the light of the discussions above, I am of the view that successive reservation to the offices of the Chairpersons and President overlooking the constitutional directives is illegal and unsustainable. It is also arbitrary as it would deny aspirations of the candidates of non-reserved categories to occupy the offices of the Presidents or Chairpersons. By insisting on following the rotation, the Constitution intends to avoid reverse discrimination. Thus, the failure to follow rotation would deny equality of opportunity. Though one has no fundamental right to the offices of the Presidents or Chairpersons that will not render a discriminatory decision as to legal and valid. Thus, the petitioners have made out a case for interference.

14. The learned Standing Counsel for the Election Commission raised the following objections:

W.P.(C).Nos.24044/2020 and connected cases

-:12:-

Objection No.i.:

14.i. According to the learned Standing Counsel, the writ petitions are not maintainable under Article 243-O as the Election Commission has already issued the election notification. This Court shall examine the objections of the learned Standing Counsel under Article 243-O. Article 243-O bars interference by Courts in electoral matters. Article 243-O, in my opinion, does not attract in this matter. The electoral matters mean the process upto the declaration of the results. The notification issued for reservation of Presidents or Chairpersons does not form part of a notification issued for the election. A notification issued for reservation of the Presidents and Chairpersons is distinct and different from a notification issued for the election. Section 153(4)(d) of the Kerala Panchayat Raj Act refers to issuing a notification of reservation before issuing a notification for the general election. That clearly makes a case that the notification of election is distinct and different. Merely because a notification has to be issued prior to the election, that does not mean that

W.P.(C).Nos.24044/2020 and connected cases

-:13:-

this Court cannot interfere with such notification during the process of the general election. There is no legal bar under the law for a Court interfering with such matters. The Apex Court in **Dravida Munnetra Kazhagam (DMK) v. Secretary, Governor's Secretariat and others [(2020) 6 SCC 548]** and **Election Commission of India v. Ashok Kumar and Others [(2000) 8 SCC 216]** have taken the view that the Court can interfere with matters related to the election if such intervention has no effect of interruption or obstruction to the election proceedings. Thus Court can very well interfere in exceptional cases if the Court is of the view that interference will not have an effect on the on-going election process.

14.ii. The election of Chairpersons will take place only after the declaration of the result. It will in no way affect the on-going election proceedings. On the other hand, if any direction given now would only further the objectives of the constitutional directives of rotation.

14.iii. The learned Standing Counsel placed reliance on the judgment of the Karnataka High Court in **Latha and Others**

W.P.(C).Nos.24044/2020 and connected cases

-:14:-

v. State of Karnataka and Others [2017 KHC 5236] and argued that the Karnataka High Court in similar circumstances, declined jurisdiction. This Court is of the view that it was a challenge changing the reservation and not a challenge based on successive reservation. The challenge made therein appears to be made against the basis of reservation of the Scheduled Tribe category. In fact, such a challenge would have an impact upon the seat reserved for such category. In such circumstances, the Karnataka High Court rightly declined jurisdiction. Here, in this case, the challenge is exclusively against the offices of the Presidents and Chairpersons and, therefore, Article 243-0 will not apply.

Objection No.2:

14.iv. The learned Standing Counsel submits that if any change is effected, that would affect the seating arrangements made by different parties and, without notice to all affected persons, this Court cannot interfere with such matters. It is to be noted that no one has any fundamental right to a post nor, has any statutory right to the offices of the Presidents or Chairpersons before the

W.P.(C).Nos.24044/2020 and connected cases

-:15:-

election. The mere expectation of a contestant in an election will not confer him a legal right to claim for the office. The right to the office is created by Constitution and statute and, therefore, it can be claimed only in accordance with law as laid in Constitution and statute. Therefore expectation of contestants to aspire for the office cannot be characterised having an element of legal interest to classify them as 'aggrieved persons'. A further claim of aspirants is under public law and not under private law. The sphere of public law cannot be decided by private aspirations of an individual. At the best private individual can only demand conduct of the election in accordance with the law. The second objection of the learned Standing Counsel is also untenable and, accordingly, it is overruled.

15. This Court has to interfere with the decision of the Election Commission, successively reserving the post of Presidents and Chairpersons to the offices of the local authorities to ensure that the elections to the said office is made in accordance with the constitutional mandate and directives. The writ petitions are, therefore, allowed. The

W.P.(C).Nos.24044/2020 and connected cases

-:16:-

Election Commission is directed to recast the reservation of the office of the Presidents and Chairpersons of the local bodies in the State pursuant to the notification dated 3/11/2020, strictly complying with the constitutional directives under the third proviso to Article 243-D(4), following the principles of rotation. Any exercise so to be made shall not result in the reduction of reservation of offices as prescribed in the Constitution.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

ms

APPENDIX OF WP (C) 24044/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1

**TRUE COPY OF THE NOTIFICATION
NO.2621/2020/STATE ELECTION COMMISSION
DATED 03.11.2020 ISSUED BY FIRST RESPONDENT
KERALA STATE ELECTION COMMISSION.**

APPENDIX OF WP (C) 24048/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1

**TRUE COPY OF THE NOTIFICATION
NO.275/220/STATE ELECTION COMMISSION DATED
3.11.2020 ISSUED BY FIRST RESPONDENT KERALA
STATE ELECTION COMMISSION**

APPENDIX OF WP (C) 24064/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1

**A TRUE COPY OF THE NOTIFICATION
NO.275/2020/S.E.C. DATED 3/11/2020 ISSUED
BY 1ST RESPONDENT KERALA STATE ELECTION
COMMISSION.**

APPENDIX OF WP (C) 24082/2020

PETITIONER'S/S EXHIBITS:

- | | |
|-------------------|---|
| EXHIBIT P1 | TRUE PHOTOCOPY OF THE ELECTOR ID CARD BEARING NO.RC10346262 ISSUED TO THE PETITIONER ON BEHALF OF THE RESPONDENT. |
| EXHIBIT P2 | TRUE PHOTOCOPIES OF THE RELEVANT PAGES OF THE NOTIFICATION NO.214/2010/SEC DATED 26.08.2020 PUBLISHED IN THE KERALA GAZETTE EXTRAORDINARY, RESERVING THE PRESIDENSHIP OF PULIMATH GRAMA PANCHAYATH IN FAVOUR OF LADY/WOMAN. |
| EXHIBIT P3 | TRUE PHOTOCOPY OF THE RELEVANT PAGES OF THE NOTIFICATION NO. 126/2015/SEC DATED 1.10.2015, PERTAINING TO PULIMATH GRAMA PANCHAYATH OF THIRUVANANTHAPURAM DISTRICT, RESERVING THE PRESIDENSHIP OF THE PANCHAYATH, TO A PERSON BELONGED TO SC COMMUNITY. |
| EXHIBIT P4 | TRUE PHOTOCOPIES OF THE RELEVANT PAGES OF THE NOTIFICATION NO.275/2020/SEC DATED 3.11.2020 PUBLISHED IN THE KERALA GAZETTE EXTRAORDINARY. |
| EXHIBIT P5 | TRUE COPY OF THE REPRESENTATION DATED 5.11.2020 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT. |

APPENDIX OF WP (C) 24127/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1 TRUE COPY OF THE JUDGMENT DATED 4.11.2020
PASSED BY THIS HON'BLE COURT IN WPC NO
21821/2020

EXHIBIT P2 TRUE COPY OF THE REPRESENTATION DATED
5.11.2020 SUBMITTED BY THE PETITIONER
BEFORE THE 2ND RESPONDENT

EXHIBIT P3 TRUE COPY OF THE REPRESENTATION DATED
5.11.2020 SUBMITTED BY THE PETITIONER
BEFORE THE 3RD RESPONDENT

PRODUCED ALONG WITH IA NO. 1/2020

EXHIBIT P3 TRUE COPY OF THE NOTIFICATION SHOWING THE
RESERVATION FOR THE YEAR 2010

EXHIBIT P3 (a) TRUE COPY OF THE NOTIFICATION SHOWING THE
RESERVATION FOR THE YEAR 2015

EXHIBIT P4 TRUE COPY OF THE GAZETTE NOTIFICATION DATED
3/11/2020 EVIDENCING THE FACT THAT THE SAME
IS RESERVED FOR WOMEN

APPENDIX OF WP (C) 24147/2020

PETITIONER'S/S EXHIBITS:

- | | |
|------------|--|
| EXHIBIT P1 | TRUE PHOTOCOPY OF THE NOTIFICATION ISSUED
BY THE SECOND RESPONDENT DATED 3.11.2020. |
| EXHIBIT P2 | TRUE PHOTOCOPY OF THE MALAYALAM VERSION OF
THE RULE 3 OF KERALA PANCHAYATH RAJ
(ELECTION OF PRESIDENT AND VICE PRESIDENT)
RULES 1995. |
| EXHIBIT P3 | TRUE PHOTOCOPY OF THE REPRESENTATION
SUBMITTED BY THE PETITIONER BEFORE THE
SECOND RESPONDENT DATED 4.11.20. |

APPENDIX OF WP (C) 24156/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1

**TRUE COPY OF THE NOTIFICATION
NO.275/2020/STATE ELECTION COMMISSION DATED
03.11.2020 ISSUED BY FIRST RESPONDENT
KERALA STATE ELECTION COMMISSION.**

APPENDIX OF WP (C) 24181/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1

**TRUE COPY OF THE NOTIFICATION
NO.274/2020/STATE ELECTION COMMISSION DATED
03.11.2020 ISSUED BY FIRST RESPONDENT
KERALA STATE ELECTION COMMISSION.**

APPENDIX OF WP (C) 24202/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE IDENTITY CARD ISSUED TO PETITIONER BY MALAPPURAM DISTRICT PANCHAYATH
EXHIBIT P2	TRUE COPY OF THE NOTIFICATION NO 275/2020 STATE ELECTION COMMISSION DATED 3.11.2020 ISSUED BY FIRST RESPONDENT KERALA STATE ELECTION COMMISSION

APPENDIX OF WP(C) 24253/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF NOTIFICATION NO.124/2015/SEC DATED 01.10.2020 ISSUED BY THE KERALA STATE ELECTION COMMISSION
EXHIBIT P2	TRUE COPY OF NOTIFICATION NO.274/2020/SEC DATED 03.11.2020 ISSUED BY THE KERALA STATE ELECTION COMMISSION
EXHIBIT P3	TRUE COPY OF MEMORANDUM DATED 06.11.2020 SUBMITTED BY THE PETITIONER BEFORE THE STATE ELECTION COMMISSION
EXHIBIT P4	TRUE COPY OF GUIDELINES BY R2

APPENDIX OF WP (C) 24253/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE PHOTOCOPY OF ELECTRO ID CARD BEARING NO. XK10540328 ISSUED TO THE PETITIONER NO.1 BY THE RESPONDENT NO. 1
EXHIBIT P2	TRUE PHOTOCOPY OF ELECTRO ID CARD BEARING NO. DPY1682020 ISSUED TO THE PETITIONER NO. 2 BY THE RESPONDENT NO. 1
EXHIBIT P3	TRUE PHOTOCOPIES OF THE RELEVANT PAGES OF THE NOTIFICATION NO. 2200/2010/SEC DATED 25-08-2020 PUBLISHED IN KERALA GAZETTE EXTRAORDINARY, RESERVING THE POST OF PRESIDENT OF PERINGAMALA GRAMA PANCHAYATH IN THE FAVOUR OF SCHEDULED TRIBE (MALE)
EXHIBIT P4	THE COPY OF THE RELEVANT PAGES OF THE NOTIFICATION NO. 126/2015/SEC DATED 1-10-2015, PERTAINING TO PERINGAMALA GRAMA PANCHAYATH OF THIRUVANANTHAPURAM DISTRICT, RESERVING THE POST OF PRESIDENT OF THE PANCHAYATH, TO WOMEN CANDIDATE
EXHIBIT P5	TRUE PHOTOCOPIES OF THE RELEVANT PAGES OF THE NOTIFICATION NO. 275/2020/SEC DATED 3-11-2020 PUBLISHED IN KERALA GAZETTE EXTRAORDINARY RESERVING THE POST OF PRESIDENT TO SCHEDULED CASTE (MALE)
EXHIBIT P6 A	TRUE COPY OF THE REPRESENTATION DATED 5-11-2020 SUBMITTED BY THE 1ST PETITIONER BEFORE THE RESPONDENT 2
EXHIBIT P6 B	TRUE COPY OF THE REPRESENTATION DATED 5-11-2020 SUBMITTED BY THE 2ND PETITIONER BEFORE THE RESPONDENT 2

APPENDIX OF WP (C) 24340/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE NOTIFICATION ISSUED BY THE 1ST RESPONDENT DATED 01-10-2015 BEARING NO. 126/2015
EXHIBIT P2	TRUE COPY OF THE NOTIFICATION ISSUED BY THE 1ST RESPONDENT DATED 3-11-2020

APPENDIX OF WP (C) 24440/2020

PETITIONER'S/S EXHIBITS:

- | | |
|-------------------|--|
| EXHIBIT P1 | A TRUE COPY OF THE RESERVATION DETAIL
PUBLISHED BY THE 1ST RESPONDENT IN OFFICIAL
GAZETTE DATED 03.11.2020. |
| EXHIBIT P2 | A TRUE COPY OF A TABLE SHOWING THE
RESERVATION CHART OF MANANTHAVADY
MUNICIPALITY, WAYANAD DISTRICT FOR 1995,
2000,2010,2015 ELECTIONS. |
| EXHIBIT P3 | TRUE COPY OF REPRESENTATION DATED
07.11.2020 SUBMITTED BY PETITIONER BEFORE
1ST RESPONDENT. |

APPENDIX OF WP (C) 24503/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1

**TRUE COPY OF RELAVANT PAGES OF NOTIFICATION
NO.275/2020 DATED 03.11.2020 ISSUED BY THE
1ST RESPONDENT AND PUBLISHED IN KERALA
GAZETTE NO.2622.**

APPENDIX OF WP (C) 24582/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1

**TRUE COPY OF THE RELEVANT PORTION OF THE
NOTIFICATION DATED 01/10/2015.**

EXHIBIT P2

**TRUE COPY OF THE GAZETTE NOTIFICATION DATED
03/11/2020.**

APPENDIX OF WP (C) 24694/2020

PETITIONER'S/S EXHIBITS:

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|-------------------|--|
| EXHIBIT P1 | TRUE COPY OF THE IDENTITY CARD ISSUED TO
SMT. T.K.ZEENATH, THE PRESIDENT OF THE
GRAMA PANCHAYATH DURING 2015-2020. |
| EXHIBIT P2 | TRUE COPY OF THE NOTIFICATION
NO.2622/2020/STATE ELECTION COMMISSION
DATED 3.11.2020 ISSUED BY THE FIRST
RESPONDENT KERALA STATE ELECTION
COMMISSION. |
| EXHIBIT P3 | TRUE COPY OF THE SCREEN SHOT OF THE EMAIL. |

APPENDIX OF WP (C) 24726/2020

PETITIONER'S/S EXHIBITS:

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|-------------------|--|
| EXHIBIT P1 | TRUE COPY OF THE EXTRACT OF THE VOTERS LIST
OF WARD NO.XVI OF KADAMBANADU GRAMA
PANCHAYAT, PATHANAMTHITTA DISTRICT. |
| EXHIBIT P2 | TRUE COPY OF THE NOTIFICATION
NO.275/2020/SEC DATED 03.11.2020 OF THE 2ND
RESPONDENT. |

APPENDIX OF WP (C) 24798/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1

**TRUE COPY OF THE NOTIFICATION ISSUED BY THE
1ST RESPONDENT DATED 03/11/2020.**

APPENDIX OF WP (C) 24893/2020

PETITIONER'S/S EXHIBITS:

- | | |
|-------------------|---|
| EXHIBIT P1 | A TRUE COPY OF THE RELEVANT PAGE OF THE
VOTERS LIST OF WARD NO.5 OF KUMILY
PANCHAYATH. |
| EXHIBIT P2 | A TRUE COPY OF THE NOTIFICATION NO.275/2020
DATED 03.11.2020. |
| EXHIBIT P3 | A TRUE COPY OF THE PARTICULARS OF THE
ELECTED MEMBERS OF KUMILY GRAMA PANCHAYATH
PUBLISHED BY THE LOCAL SELF GOVERNMENT. |
| EXHIBIT P4 | A TRUE COPY OF THE RELEVANT PAGE OF THE
NOTIFICATION DATED 1.10.2015 |

APPENDIX OF WP (C) 24906/2020

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE RELEVANT PAGES OF THE NOTIFICATION NO.275/2020/STATE ELECTION COMMISSION DATED 3.11.2020
EXHIBIT P2	TRUE COPY OF THE REPRESENTATION DATED 11.11.2020 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT