



2025:KER:68991

W.P. (C) No. 33733 of 2025

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IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE K. BABU

TUESDAY, THE 16TH DAY OF SEPTEMBER 2025 / 25TH BHADRA, 1947

WP(C) NO. 33733 OF 2025

PETITIONER/S:

R. SURESH BABU
AGED 43 YEARS
S/O. RAJAMANI, RESIDING AT EMMAUS HOUSE,
PLAMOOTTUKADA P.O, NEYYATTINKARA,
THIRUVANANTHAPURAM DISTRICT, PIN - 695122

BY ADVS.
SHRI.P.V.BABY
SHRI.VINEETH P.BABY

RESPONDENT/S:

- 1 STATE CO-OPERATIVE ELECTION COMMISSION
CO-BANK TOWERS, THIRUVANANTHAPURAM- REPRESENTED
BY ITS SECRETARY, PIN - 695033
- 2 THE CIRCLE CO-OPERATIVE UNION
NEYYATTINKARA, THIRUVANANTHAPURAM REPRESENTED BY
ITS SECRETARY, OFFICE OF THE ASSISTANT REGISTRAR
OF CO-OPERATIVE SOCIETIES (G), NEYYATTINKARA,
THIRUVANANTHAPURAM DISTRICT, PIN - 695121
- 3 RETURNING OFFICER
ASSISTANT DIRECTOR (AUDIT), NEYYATTINKARA, OFFICE
OF THE CO-OPERATIVE SOCIETIES ASSISTANT DIRECTOR
(AUDIT), MINI CIVIL STATION, 3RD FLOOR,
NEYYATTINKARA, THIRUVANANTHAPURAM DISTRICT, PIN -
695121
- 4 SUNIL KUMAR G.R



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S/O GOPI R, SUNIL SADANAM, PAYARUMOODU, MULLOOR
P.O, VTC VIZHINJAM [PART], THIRUVANANTHAPURAM
DISTRICT

ADDITIONAL RESPONDENT NO.4 IS IMPEADED AS PER
ORDER DATED 16.09.2025 IN IA NO.1/2025.

BY ADV SMT.KAVERY S THAMPI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 16.09.2025, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



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"CR"

K.BABU, J.

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Dated this the 16th day of September, 2025

JUDGMENT

The petitioner is a member of the APCOS Employees Co-operative Society Ltd No. T.1323 at Plamoottukada, Neyyattinkara, Thiruvananthapuram District. His membership number in the Society is 137. The Society is affiliated to the Circle Co-operative Union, Neyyattinkara (respondent No.2).

2. The election to Respondent No.2 - Union was notified by Respondent No.1 through an election notification dated 30.07.2025, appointing Respondent No.3 as the Returning Officer and scheduling the election on 20.09.2025.

3. There are eight constituencies in the Circle Co-operative Union, where from 11 members are to be elected



to the Managing Committee.

4. Constituency B2 is reserved for the employees of the Primary and Apex Co-operative Societies under the Union.

5. The petitioner filed nomination to contest the election from Constituency B2 in the prescribed form. Sri M. Satheeshkumar (Member No. 138) proposed the petitioner's nomination, and another member seconded it. Respondent No.3 received petitioner's nomination.

6. Sri.M.Satheeshkumar who proposed the petitioner also filed nomination to the same constituency. The proposer of Sri.M.Satheeshkumar was the petitioner. Respondent No.3 received the nomination filed by Sri.M.Satheesh Kumar also.

7. Respondent No.3 published Ext.P3 dated 08.09.2025, the list of candidates who filed nominations, wherein the petitioner's name is in Serial No.21 and M.Satheeshkumar's name is included in Serial No.22.

8. In the scrutiny of the nominations held on



09.09.2025, the petitioner appeared before respondent No.3. After scrutiny, Ext.P5 list of candidates was published, wherein the names of the petitioner and Sri.M.Satheeshkumar were absent.

9. The case of the petitioner is that his nomination has been illegally rejected by respondent No.3. He seeks a direction to respondent No.3 to accept the same.

10. The candidate now available to contest in constituency B2 has been impleaded as additional respondent No.4.

11. Heard the learned counsel for the petitioner, the learned Standing Counsel appearing for respondent No.3 and the learned counsel appearing for additional respondent No.4.

12. The learned counsel for the petitioner submitted that the rejection of petitioner's nomination is patently illegal. The learned counsel submitted that in Ext.P5 proceedings, the Returning Officer has not stated any reason for rejection of the nomination. It is submitted that



the petitioner was orally informed that his nomination was rejected on the ground that the proposer to his nomination, Sri.M.Satheeshkumar, himself submitted a nomination to contest in the same constituency whereas petitioner was the proposer to his nomination.

13. The learned counsel for respondent No.3 submitted that it is impermissible for a proposer to a nomination to contest as a candidate in the same constituency and a candidate who files a nomination cannot propose another candidate for the same constituency.

14. The learned counsel for additional respondent No.4 submitted that when an election is for a single post, there is impropriety in one person filing nomination and proposing another person to contest for the same post in the same constituency. The learned counsel further submitted that allowing the Writ Petition on the verge of the election would disturb the process of election.

15. The learned counsel for respondent No.3 submitted that the petitioner has an alternative remedy



under Section 69(3) of the Kerala Co-operative Societies Act, 1969, by filing an Election Petition. It is vehemently contended by the learned counsel for respondent No.3 that a Writ Court cannot interfere with the election once the election process has commenced.

16. The learned counsel for additional respondent No.4 relied on ***Sri.Sant Sadguru Janardan Swami (Moingiri Mharaj) Sahakari Dugha Utpadak Sanstha and Another v. State of Maharashtra and Others*** [2001 (8) SCC 509] to contend that the Writ Petition is not maintainable and the remedy of the petitioner is to file an Election Petition.

17. The learned counsel for the petitioner relied on ***Mercy George v. Kerala State Co-operative Election Commission*** [2017 KHC 1050] in support of his contention that once a nomination paper is rejected illegally or on untenable grounds, this Court can interfere with the rejection of the nomination paper invoking the Writ jurisdiction under Article 226 of the Constitution of India.



18. Rule 129 of the Kerala Co-operative Societies Rules deals with the provision for election of members of Circle Co-operative Union. Rule 129 reads thus:-

"129. Election of members of circle co-operative union.--

XXX XXX XXX

XXX XXX XXX

XXX XXX XXX

(4)(i) Every nomination paper shall be signed by two persons whose names are included in the list referred to in clause (d) above. One member shall sign the form as proposer and the other as seconder for the nomination. The nomination paper shall also contain a declaration signed by the candidate proposed for election to the effect that he is willing to stand for election. The proposer and the seconder shall be voters of the same constituency from which the candidate is proposed for election.

(ii) Every nomination paper shall be presented in person to the Returning Officer by the candidate himself or by his proposer or seconder.

(iii) The Returning Officer shall enter on the nomination paper the serial number and certify the date and hour at which the nomination paper is received by him and also immediately acknowledge the receipt of the nomination paper.

(iv) On the day following the day fixed for the receipt of nomination papers the Returning Officer shall take up scrutiny of the nomination papers. The candidate, his proposer and seconder may be allowed to be present at the time of scrutiny.

(v) The Returning Officer shall examine the nomination papers and shall decide all objections which may be made at the time to any nomination and may either on such objections or on his own motion after such summary enquiry, if any, as he thinks necessary, reject any nomination for valid reasons or accept the same:

Provided that the nomination of a candidate shall not be rejected merely on the ground of an incorrect description of his name or of the name of his, proposer or seconder, or of any other particulars relating to the candidate or of his proposer or seconder as entered in the list of members



referred to in clause (d) if the identity of the candidate, proposer or seconder as the case may be, is established beyond reasonable doubt.

xxx xxx xxx "

19. Sub-rule (4) of Rule 129 mandates that every nomination paper shall be signed by two persons whose names are included in the final voters list. One member shall sign the form as proposer and the other as seconder for the nomination. The nomination paper shall also contain a declaration signed by the candidate proposed for election to the effect that he is willing to stand for election. The proposer and the seconder shall be voters of the same constituency from which the candidate is proposed for election.

20. As per sub - rule (4)(v) of Rule 129, the Returning Officer shall examine the nomination papers and shall decide all objections that may be raised and may either on such objections or on his own motion reject any nomination for valid reasons or accept the same after conducting such summary enquiry, as he thinks necessary.

21. It is the submission of the learned standing



counsel for respondent No.3 and additional respondent No.4 that a person who proposes a candidate cannot himself be a candidate for the same constituency especially when there is only one post. It is further submitted that a candidate who submits nomination cannot himself propose another candidate to the same constituency. The submission is that a candidate who files nomination would stand disqualified to contest the election, if he proposes the nomination of another candidate to the same constituency. The relevant Rule does not contain any such provision. There are no indications in the relevant Rules that disqualifies a candidate from contesting an election on the ground that he proposed the nomination of another candidate in the same constituency. There is also no indication that a person who proposes or seconds nomination of another person would become disqualified from contesting the election. The right to contest in the election is a statutory right of a member of the society which cannot be denied except on the ground of disqualification specifically prescribed in the Statute.



22. Therefore, rejection of nomination of the petitioner by respondent No.3 is patently illegal and untenable.

23. Now coming to the scope of the intervention of this Court invoking jurisdiction under Article 226 of the Constitution of India in matters relating to election.

24. In ***Sri.Sant Sadguru Janardan Swami (Moingiri Mharaj) Sahakari Dugdha Utpadak Sanstha v. State of Maharashtra*** [(2001) 8 SCC 509] the Apex Court held thus:

“12. In view of our finding that preparation of the electoral roll being an intermediate stage in the process of election of the Managing Committee of a specified society and the election process having been set in motion, it is well settled that the High Court should not stay the continuation of the election process even though there may be some alleged illegality or breach of rules while preparing the electoral roll. It is not disputed that the election in question has already been held and the result thereof has been stayed by an order of this Court, and once the result of the election is declared, it would be open to the appellants to challenge the election of the returned candidate, if aggrieved, by means of an election petition before the Election Tribunal.”

25. In ***Election Commission v. Ashok Kumar***



[(2000) 8 SCC 216], a three Judges Bench of the Apex Court, after referring to two earlier Constitution Bench decisions of the Apex Court in ***N.P. Ponnuswami v. The Returning Officer, Namakkal Constituency*** [AIR 1952 SC 64] and ***Mohinder Singh Gill v. The Chief Election Commissioner, New Delhi*** [AIR 1978 SC 851] summed up the following conclusions in paragraph 32 of the judgment:-

“**32.** For convenience sake we would now generally sum up our conclusions by partly restating what the two Constitution Benches have already said and then adding by clarifying what follows therefrom in view of the analysis made by us hereinabove:

(1) If an election, (the term election being widely interpreted so as to include all steps and entire proceedings commencing from the date of notification of election till the date of declaration of result) is to be called in question and which questioning may have the effect of interrupting, obstructing or protracting the election proceedings in any manner, the invoking of judicial remedy has to be postponed till after the completing of proceedings in elections.

(2) Any decision sought and rendered will not amount to “calling in question an election” if it subserves the progress of the election and facilitates the completion of the election. Anything done towards completing or in furtherance of the



election proceedings cannot be described as questioning the election.

(3) Subject to the above, the action taken or orders issued by Election Commission are open to judicial review on the well-settled parameters which enable judicial review of decisions of statutory bodies such as on a case of mala fide or arbitrary exercise of power being made out or the statutory body being shown to have acted in breach of law.

(4) Without interrupting, obstructing or delaying the progress of the election proceedings, judicial intervention is available if assistance of the court has been sought for merely to correct or smoothen the progress of the election proceedings, to remove the obstacles therein, or to preserve a vital piece of evidence if the same would be lost or destroyed or rendered irretrievable by the time the results are declared and stage is set for invoking the jurisdiction of the court.

(5) The court must be very circumspect and act with caution while entertaining any election dispute though not hit by the bar of Article 329(b) but brought to it during the pendency of election proceedings. The court must guard against any attempt at retarding, interrupting, protracting or stalling of the election proceedings. Care has to be taken to see that there is no attempt to utilise the court's indulgence by filing a petition outwardly innocuous but essentially a subterfuge or pretext for achieving an ulterior or hidden end. Needless to say that in the very nature of the things the court would act with reluctance and shall not



act, except on a clear and strong case for its intervention having been made out by raising the pleas with particulars and precision and supporting the same by necessary material.”

26. A Division Bench of this Court in ***Jaya Varma K. v. State Co-operative Election Commission*** [2017 (1) KLT 921] observed that a Writ Petition can be entertained on the well settled parameters in order to correct or smoothen the progress of election. The Division Bench further held that the instance of rejection of the nomination on totally untenable grounds is an example which could be rectified without upsetting the election calendar.

27. In ***Mercy George v. The Kerala State Co-operative Election Commission*** [2018 (1) KLT 70] a learned Single Judge of this Court held that if rejection of nomination paper is patently illegal or on totally untenable grounds and there is no need to adduce elaborate oral or documentary evidence in order to substantiate the said contention, then this Court can interfere with the rejection of nomination paper invoking the Writ jurisdiction under Article 226 of the Constitution of India without upsetting



the election calendar.

28. I have held that the rejection of nomination paper is patently illegal and untenable. There is no need to adduce any oral or documentary evidence to substantiate the contention. Therefore, it is very much within the jurisdiction of this Court to interfere with the illegal rejection of the nomination paper submitted by the petitioner.

Therefore, the Writ Petition is allowed. Respondent No.3 is directed to accept the nomination submitted by the petitioner.

**Sd/-
K.BABU
JUDGE**



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APPENDIX OF WP(C) 33733/2025

PETITIONER EXHIBITS

Exhibit P1	TRUE PHOTOCOPY OF THE RELEVANT PAGES CONTAINED AT PAGE NO.1,7 AND 29
Exhibit P2	TRUE PHOTOCOPY OF THE INTIMATION DATED 30/7/2025 ISSUED BY THE 2ND RESPONDENT
Exhibit P3	TRUE PHOTOCOPY OF THE LIST OF NOMINATION PUBLISHED BY THE 3RD RESPONDENT DATED 8/9/2025
Exhibit P4	TRUE PHOTOCOPY OF THE RECEIPT DATED 08/09/2025 ISSUED BY THE 3RD RESPONDENT
Exhibit P5	TRUE PHOTOCOPY OF THE FINAL LIST OF NOMINATIONS PUBLISHED BY THE 3RD RESPONDENT DATED 9/9/2025
Exhibit P6	TRUE PHOTOCOPY OF THE REQUEST DATED 10/9/2025 ACCEPTED BY THE 3RD RESPONDENT