

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 31ST DAY OF MARCH 2021 / 10TH CHAITHRA, 1943

WP(C).No.8034 OF 2021(S)

PETITIONER/S:

RAMESH CHENNITHALA,MLA
AGED 61 YEARS
S/O.LATE V.RAMAKRISHNA NAIR,RESIDING AT CANTONMENT
HOUSE,THIRUVANANTHAPURAM-695033.

BY ADVS.
SRI.T.ASAFALI
SMT.LALIZA.T.Y.

RESPONDENT/S:

- 1 ELECTION COMMISSION OF INDIA
REPRESENTED BY ITS SECRETARY GENERAL,
NIRVACHAN SADAN,ASOKA ROAD,NEW DELHI-110028.
- 2 THE CHIEF ELECTORAL OFFICER,
KERALA,VIKAS BHAWAN,LEGISLATURE
COMPLEX,THIRUVANANTHAPURAM-695033.

R1-2 BY ADV. SRI.DEEPULAL MOHAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
31.03.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

Date this the 31st day of March, 2021

S. Manikumar, C. J.

Instant public interest writ petition has been filed seeking the following reliefs:-

“i) Issue a Writ of Mandamus or any other appropriate writ or order directing or commanding the respondents to take immediate actions in pursuance of Exhibit P-4, Exhibit P4(a), Exhibit P4(c) and Exhibit P4(d) letters and Exhibit P2 and Exhibit P2(a) Cds sent by the petitioner to the respondents and rectify the electoral roll published for the election to the Kerala Legislative Assembly, which is scheduled to be held on 6th April 2021, by deleting or freezing fake/multiple votes proved from the list furnished by the petitioners by way of producing CDs, and also to ensure that those fake/multiple entry voters are not permitted to vote in the election in any polling booths;

ii) to initiate appropriate criminal actions against those who are responsible for, including those who aided and abetted in breach of official duty in connection with the preparation of electoral roll which facilitated fake/multiple entries in the electoral roll published for the election to the Kerala Legislative Assembly scheduled to be held on 6th April 2021.”

2. Short facts leading to filing of the writ petition are as hereunder:-

Petitioner is the MLA representing Harippad Assembly Constituency and the Leader of Opposition in the Kerala Legislative Assembly.

According to the petitioner, being a responsible public functionary, as the Leader of Opposition in the Kerala Legislative Assembly, he is highly aggrieved by the gross lethargy and inaction of the respondents, in not taking any action in pursuance of Ext. P4 series letters sent to them, in rectifying the large double/bogus votes in the electoral roll published for the election to the Kerala Legislative Assembly, which is scheduled to be held on 06.04.2021.

Petitioner has submitted that the Chief Electoral Officer, Kerala, the 2nd respondent, has admitted that the serious allegations of fake/multiple votes, illegally enrolled in the electoral rolls, as alleged by the petitioner, are true and genuine, which is evident from Ext. P5 series newspaper reports. The respondents have not shown the courtesy to send any reply to the very serious issue raised by the petitioner in Ext. P4 series letters.

Petitioner has further submitted that a scrutiny of Ext. P2 Compact Disc would prove more than 4,34,042 fake/multiple entry votes spreading over 131 Assembly constituencies have already been detected. Unless those fake/multiple entry voters are restrained from participating in the poll, and criminal action is launched against those who are responsible for fake/multiple entries, and punished in accordance with law, far reaching consequences will be caused to the electoral system.

3. Being aggrieved instant writ petition is filed, on the following grounds:-

- A) The respondents have committed serious illegality in not acting in pursuance of Exhibit P4 series letters sent by the petitioner regarding the fake/double entries in the electoral rolls, which is proved from documentary evidence and CD produced.
- B) Unless the final electoral roll published for the ensuing election to the Kerala Legislative Assembly is rectified by deleting or freezing the double/fake voters and initiated criminal action against those who are responsible for this serious criminal acts, it would result far reaching consequences to the electoral system.
- C) Exhibit P-2 and Exhibit P2(a) Compact Discs(CDs) would prove glaring manipulations made in the preparation of final electoral rolls, which alone is sufficient enough for issuing an order to delete or freeze proven double voters from the

electoral roll. It is trite law under Representation of People Act, that multiple exercise of franchise would in effect make both votes void. Permitting a voter to exercise multiple vote would be a negation to the rule of law.

- D) There is no justification on the part of the respondents in keeping idle without being taken any immediate meaningful actions to rectify the proven fake/double entries in the electoral roll, that too confirmed by the respondents as true and genuine, which requires immediate action.
- E) It is understood that on the basis of the enquiry conducted by the respondents in pursuance of the complaint made by the petitioner one officer alone was suspended as an eye wash and no further action was taken for no reason.
- F) The respondents ought to have taken serious note of the allegations made by the petitioner as per Exhibit A4 series letters that those who are not legally entitled to register as voters have been allowed to register as voters in the electoral rolls, the act of which would in effect sabotage entire process of election.

4. On 29.03.2021, when the matter came up for hearing, we passed the following order:-

“Contending inter alia that there are multiple entries of the voters in various places, which according to the petitioner about 3,24,441 double votes and 1,09,601 of bogus votes in the final electoral roll published on 20.01.2021, spreading over 131 Assembly Constituencies, and in total 4,34,042 double / fake votes in the final electoral rolls, and further contending that though complaints were made to the Election Commission to correct the electoral roll, no steps have been taken, and in as much as voting is

scheduled on 06.04.2021, petitioner has sought for a mandamus, directing the respondents to take immediate actions, in pursuance of Ext. P4, Ext. P4(a),

Ext. P4(c) and Ext. P4(d) letters, and Ext. P2 and Ext. P2(a) CDs sent by the petitioner to the respondents, and rectify the electoral roll published for the election to the Kerala Legislative Assembly, which is scheduled to be held on 06.04.2021, by deleting or freezing fake / multiple votes, proved from the list furnished by the petitioner, by way of producing CDs, and also to ensure that those fake / multiple entry voters are not permitted to vote in the election in any polling booths.

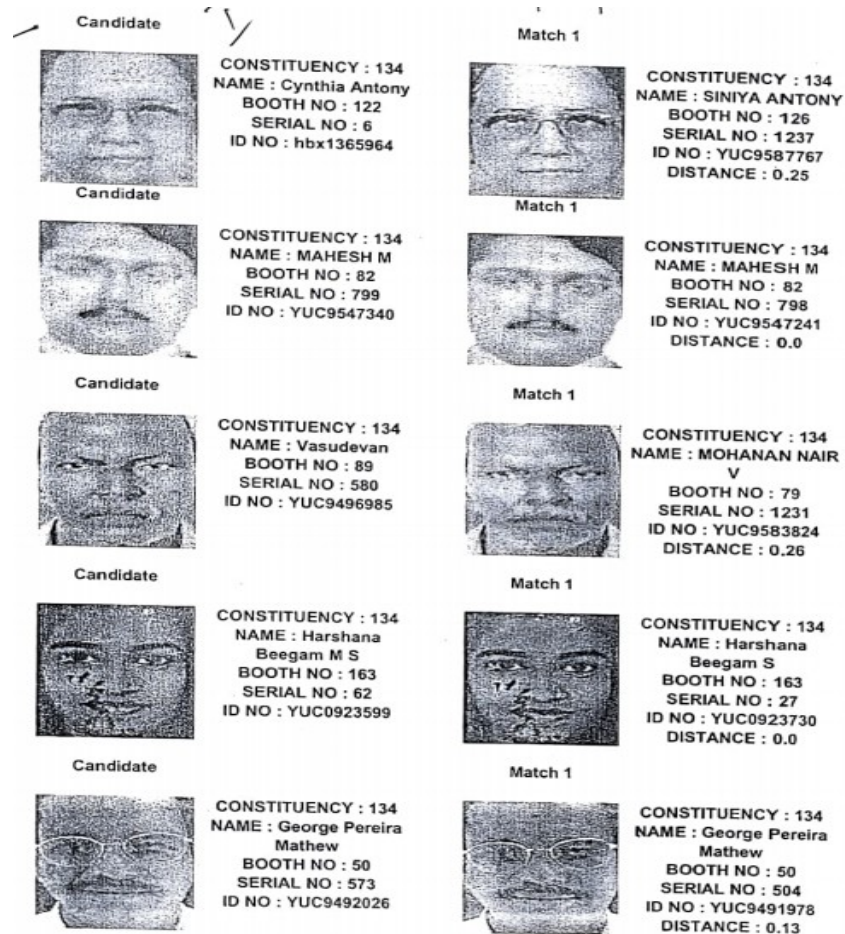
2. Petitioner has also sought for a mandamus directing to initiate criminal action against those who are responsible for, including those who aided and abetted, in breach of official duty in connection with the preparation of electoral roll, which facilitated fake / multiple entries in the electoral roll published for the election to the Kerala Legislative Assembly, scheduled to be held on 06.04.2021.

3. In support of the contention, petitioner has enclosed Ext. P1 statement showing double votes as disclosed from the investigation conducted by the team of the petitioner.

4. Documents enclosed in Ext. P3 shows that in respect of one Kumari, w/o Raveendran, voter at Section 1 Peria in No. 3 Uduma Assembly Constituency in Kasaragod District, her name is registered five times.

5. During the course of hearing, Mr. T. Asaf Ali, learned counsel for the petitioner, also placed before us computerized printout of the voters of 134 Thiruvananthapuram Central Constituency.

6. Perusal of the same indicates that while the photographs of the voter being the same, names are different. Booth numbers and serial numbers also differ. To sight a few, reference can be made to the following:-



7. Added further, Mr. Asaf Ali, learned counsel for the petitioner submitted that, perusal of CDs enclosed along with the writ petition shows that, large number of voters are registered at various places.

8. Learned counsel for the petitioner further submitted that, despite representations Ext. P4 dated 17.03.2021, Ext. P4(a) dated 18.03.2021, Ext. P4(b) dated 19.03.2021 and Ext. P4(c) dated 22.03.2021 sent to the Chief Electoral Officer, Kerala, the 2nd respondent, and Ext. P4(d) dated 22.03.2021 sent to the Chief Election Commissioner, New Delhi, the 1st respondent, there is no response, and thus the petitioner is constrained to approach this Court.

9. Responding to the above, Mr. Deepu Lal Mohan, learned Standing Counsel for the Election Commission of India, the 1st respondent, submitted that, at times when a voter shifts his residence and goes to some other place, there are possibilities of registering twice. Therefore, demographical multiple entries are made. However, instructions have been issued to the concerned officers to visit the residences of such voters, and efforts are taken to avoid multiple voting.

10. Posed with a question as to whether the Election Commission of India, the 1st respondent, has any mechanism to find out the chances of multiple entry, in the case of absence / shifting or for any other reason, Mr. Deepu Lal Mohan, learned Standing Counsel for the Election Commission of India submitted that he will get appropriate instructions on the above.

11. Learned Standing Counsel for the Election Commission of India further submitted that, steps have been taken to correct the electoral roll / voters list, which would be filed in the form of a counter affidavit with supporting documents.

12. On the above submissions and the material on record, we are of the *prima facie* view that there are discrepancies in the final voters list published by the Election Commission.

13. As rightly contended by Mr. T. Asaf Ali, learned counsel for the petitioner, the presence of multiple entries in the voters list would facilitate a voter to cast twice, which is not permissible in law.

14. Though Mr. Deepu Lal Mohan, learned Standing Counsel for the Election Commission of India submitted that efforts are being taken to find out multiple entries in the voters list to ensure fair and democratic election, we are of the view that a voter should be permitted to cast only one vote, wherever his name is registered.

15. Accordingly, we direct and make it clear that the Election Commission of India should ensure that there is no double voting by any voter. Election Commission should also ensure that sufficient State / Central force is posted at all voting places, to ensure fair and democratic election. To implement the above, steps should be taken on war footing basis.

16. All possible steps should be taken to ensure that there is no double voting. Orders of this Court should be implemented in letter and spirit, without any room for compliant.

Mr. Deepu Lal Mohan, learned Standing Counsel for the Election Commission of India, is directed to file a counter affidavit tomorrow, with supporting documents. Mr. T. Asaf Ali, learned counsel for the petitioner, is permitted to file additional documents required.”

5. The Chief Electoral Officer, Kerala, the 2nd respondent, has filed a detailed counter affidavit in the writ petition, which reads thus:-

“a) At the outset, it is respectfully submitted in the above Writ Petition, it is seen averred that the Writ Petitioner is a contesting candidate from Harippad Assembly constituency in the ensuing General Election to the Kerala Legislative Assembly, as sponsored by Indian National Congress (I) and that in State of Kerala, there are two formidable coalition fronts, namely, United Democratic Front (UDF) led by Indian National Congress (I) and Left Democratic Front (LDF) led by Communist Party of India (Marxist) and that since 1982, there have been change of Government in the State every five years and the voting difference between two coalition fronts is very negligible and hence manipulated votes would have significant impact in the election results. However, inspite of having stated the above, in the affidavit filed along with Writ Petition, as statutorily mandated under Rule-146A of the Rules of the High Court of Kerala, 1971, the Petitioner also solemnly affirms and state that the result of litigation shall not lead to any gain to him or to anyone associated to him; both of which averments cannot go together and raises serious doubt as to whether the above Writ Petition styled as a Public Interest Litigation is essentially a Political Interest Litigation and hence the above Writ Petition is liable to be dismissed on this short ground.

b) Without prejudice to the above contention, it is submitted that the General Election to the Legislative Assembly Constituencies in Kerala has been notified on 12-03-2021 and the election process has reached an advanced stage. Besides, duration of

the State Legislature of Kerala is to expire shortly on 01-06-2021 and under the provisions of Article 172 (1) of the Constitution of India, elections to the Legislative Assembly of Kerala is to be held and completed before the expiration of the term of the Legislative Assembly. Thus, the election to the Kerala Legislative Assembly is notified to be held on 06-04-2021. Therefore, it is respectfully submitted that there is bar to interference by this Hon'ble Court in the Writ Petition in view of the provisions in Article 329 (b) of the Constitution of India and it is humbly prayed that the above Writ Petition may be dismissed as not maintainable.

c) In this context, it may be pointed out that the Hon'ble Supreme Court and this Hon'ble Court has times out of number held that, once the election process is set in motion and is in process, a Writ Petition under Article 226 of the Constitution shall not be entertained. The Constitution Bench of the Hon'ble Supreme Court, right from **(N.P. Ponnuswami V. The Returning Officer, Namakkal Constituency (AIR 1952 SC 64), Mohinder Singh Gill V. Chief Election Commissioner and Others (AIR 1978 SC 851), Anugrah Narain Singh V. State of UP, ((1996) 6 SCC 303); Election Commission of India V. Ashok Kumar and Others, (2000) 8 SCC 216), Manda Jaganath V. K.S .Rathnam (2004) 7 SCC 492, Harnek Singh V. Charanjit Singh and others ((2005) 8 SCC 383)** has held that the term 'election' embraces the whole procedure right from the declaration of elections till the declaration of results and there cannot be any interferences at intermediate stage under Article 226 of the Constitution and stalling or interference with the process is undesirable and need restraint.

d) Recently, the Hon'ble Supreme Court in **State of Goa and another V. Fouziya Imtiaz Shaik and Another** reported in **2021 SCC OnLine SC 211** has reiterated that from the date of notification of the election till the date of declaration of result a judicial hands-off is mandated by the non-obstante clause contained in Article 243ZG (corresponding to Article 329) debarring the writ court under Article 226 and 227 from interfering once the election process has begun until it is over.

e) It is further submitted that the relief prayed for in the above Writ Petition to rectify the final electoral roll published in respect of the ensuing General Election to Legislative Assembly constituencies in Kerala and to delete or freeze fake/multiple votes is not maintainable in view of the Section 23 (3) of the Representation of the People Act, 1950 (hereinafter referred to as 'the Act' for brevity) and hence the said relief may not be granted in a Writ Petition filed under Article 226 of the Constitution of India.

f) In **Lakshmi Charan Sen v. A.K.M.Hassan Uzzaman and Others (AIR 1985 SC 1233)**, the Constitution Bench of the Hon'ble Supreme Court while dealing with the challenge to preparation of electoral roll held that: -

"The High Courts must observe a self-imposed limitation on their power to act under Article 226, by refusing to pass orders or give directions which will inevitably result in an indefinite postponement of elections to legislative bodies, which are very essence of the democratic foundation and functioning of our Constitution. That limitation ought to be observed irrespective of the fact whether the preparation and publication of electoral rolls are a part of the process of 'election' within the meaning of Article 329 (b) of the Constitution."

g) The Hon'ble Supreme Court in **Anugrah Narain Singh v. State of UP ((1996) 6 SCC 303)** held: -

“So far as preparation of the electoral roll is concerned, there are sufficient safeguards in the Act against any abuse or misuse of power. In view of the provisions for filing objections and also the right of appeal against inclusion, deletion and correction of names and also to the constitutional authority of the Election Commission to give directions in all matters pertaining to elections, there is hardly any scope for a court to intervene and correct the electoral rolls under Article 226 of the Constitution. Therefore, the Court should not have intervened at all on the basis of allegations as to preparation of electoral rolls. If this is allowed to be done, every election will be indefinitely delayed and it will not be possible to comply with the mandate of the Constitution that every Municipality shall have a life span of five years, or less, if dissolved earlier, and thereafter fresh elections will have to be held within the time specified in clause (3) of Article 243-U.”

h) The inclusion and deletion of names from the electoral roll is a continuous process which has to go on; elections or no elections. The only ban period is from the last date of making nomination to the completion of electoral process for an election.

i) Section 23 (3) of the Act provides that no amendment, transposition or deletion of any entry shall be made under Section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this Section after the last date for making nominations for an election in that constituency and before the completion of that election. Application for such purpose has to be filed at least 10 days prior to the date specified for filing nomination and not thereafter.

j) The Hon'ble Supreme Court in **Baidyanath Panjiar. v. Sitaram Mahato (AIR 1970 SC 314)** has held that any inclusion, deletion or correction in the electoral roll after the last date for making nominations in the constituency shall be without jurisdiction. This position has been reiterated by the Constitution Bench of the Hon'ble Supreme Court in **Lakshmi Charan Sen v. A.K.M. Hassan Uzzman and others (AIR 1985 SC 1233)** and the Court further held that election has to be held on the basis of the electoral roll in force on the last date of making nominations, **no matter whether any claims and objections remains to be disposed of.**

k) The electoral roll remains **frozen** from 3 p.m. on the last date of making nominations until the completion of that election. In **Narendra Madivalapa Kheni v. Manikrao Patil and others (AIR 1977 SC 2171)** the Hon'ble Supreme Court held thus:-

"There is a blanket ban in Section 23 (3) of any amendment, transposition or deletion of any entry or, the issuance of any direction for the inclusion of name in the electoral roll of a constituency after the last date for making nominations for an election in that constituency.....This prohibition is based on public policy and serves a public purpose. Any violation of such a mandatory provision conceived to pre-empt scrambles to thrust into the rolls, after the appointed time, fancied voters by anxious candidates or parties spells invalidly and if in flagrant violation of Section 23 (3), name have been included in the electoral roll, the bonus of such illegitimate votes shall not accrue, since the vice of voidance must attach to such names. Such void votes cannot help a candidate win the contest.....The cumulative effect of these various strands of reasoning and the

rigour of the language of Section 23 (3) of the 1950 Act leaves no doubt in our minds that inclusion of the names in the electoral roll of constituency after the last date for making nominations for an election in that constituency must be visited with fatality. Such belated arrivals are excluded by the talons of the law and must be ignored in the poll.....Section 23 of the 1950 Act does not state that the inclusion of the names in the electoral roll can be carried out till the last date for making nominations for an election in the concerned constituency.....In short, Section 23 (3) of the 1950 Act and Section 33 (1), (4) and (5) of the 1951 Act interact, fertilize and operate as a duplex of clauses. So viewed, the inclusion of the names in the electoral roll after 3 p.m. on 17 April 1974 (last date for making nominations) is illegitimate and illegal”.

l) This position has been further reiterated in **P.T. Rajan v. T.P.M. Sahir ((2003) 8 SCC 498)** and subsequent decisions. Therefore, the prayer of the Petitioner for direction to rectify the final electoral roll published in respect of the ensuing General Election to Legislative Assembly constituencies in Kerala and to delete or freeze fake/multiple votes cannot be granted by this Hon’ble Court.

m) The Hon'ble Supreme Court in **Kishansing Tomar v. Municipal Corporation of the city of Ahmedabad and others (2006) 8 SCC 352** observed that in terms of Article 243 K and Article 243 ZA the same powers are vested in the State Election Commission as the Election Commission of India under Article 324.

n) Article 324 of the Constitution of India has entrusted the superintendence, direction and control of the preparation of the

electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State with the Election Commission. Section 15 of the Act provides that there shall be an electoral roll for every constituency which shall be prepared in accordance with the provisions of the Act under the superintendence, direction and control of the Election Commission and Section 21 of the Act provides that the electoral roll for each constituency shall be prepared in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under the Act.

o) The preparation of Electoral Rolls has three stages (i) Pre-revision activities, (ii) Revision process and (iii) Continuous updation. Electoral Rolls (ER) are being continuously updated throughout the year, except for the period between the last date of making nominations during an election and date of declaration of result. Even during that period, claims and objections can be received though they can be disposed only after the conclusion of election.

p) The election preparedness in the State was initiated by the Election Commission of India on 07-08-2020 by announcement of the Special Summary Revision (SSR) of Photo Electoral Rolls with reference to 01-01-2021 as qualifying date. The photocopy of letter No. 23/2020-ERS dated 07-08-2020 issued by the Election commission of India is produced herewith and marked as **EXHIBIT-R1(a)**. As can be seen from Ext. R1(a), integrated draft electoral roll was to be published on 16-11-2020 and 30 days period was specified for filing claims and objections; that is from 16-11-2020 to 15-12-2020. Further, the final electoral roll was scheduled to be published on 15-01-2021.

q) Thus announcement of SSR was given due publicity by the 2nd Respondent through press release and advertisements were released in all vernacular and national newspapers in the State, brochures and flyers were produced and distributed widely throughout the State. Further, in order to seek co-operation from all Political Parties (who are one of the major stake holders as far as elections are concerned) in the preparation of error-free electoral rolls, as per letter No. 1846/EL3/2020/Elec. dated 30-10-2020, the 2nd Respondent convened a meeting with registered National/State Political Parties on 09-11-2020. The photocopy of letter No. 1846/EL3/2020/Elec. dated 30-10-2020 issued by the 2nd Respondent is produced herewith and marked as **EXHIBIT-R2(b)**. Accordingly, in the meeting held on 09-11-2020, the Petitioner's party was also duly represented. The photocopy of attendance sheet of the meeting convened by the 2nd Respondent along with registered National/State Political Parties on 09-11-2020 is produced herewith and marked as **EXHIBIT-R2(c)**. Thus, in the said meeting, representatives of all political parties present, requested to extend the time for filing claims and objections since political parties would not be able to cast their attention in filing of claims and objections during said period in view of the announcement of 2020, General Election to Local self Government Institutions. Subsequently, as per request of the 2nd Respondent, the Election Commission of India issued letter No. 23/KL/2020-21 dated 25-11-2020 to the 2nd Respondent; intimating the revised schedule of SSR; whereby, period of filing claims and objections was extended till 31-12-2020 and final electoral rolls were to be published on 20-01-2021. The photocopy of letter No. 23/KL/2020-21 dated 25-11-2020 issued by the 1st Respondent to the 2nd Respondent is produced herewith and marked as **EXHIBIT-R2(d)**.

r) Thus, integrated draft electoral roll was duly published on 16-11-2020 and same was given wide publication through online and printed media and the same was also published in the official website of the Respondents. The draft electoral rolls thus published had 2,63,08,087 electors after making 205679 additions and 98840 deletions. Subsequently, the final electoral rolls were published on 20-01-2021. The final electoral rolls thus published had 2,67,31,509 electors after making 579835 additions and 156413 deletions. The publication of such final electoral rolls was also given wide publicity through printed and online media and in the official website of the Respondents.

s) Further, even after final publication of electoral rolls, the process of continuous updation of electoral rolls continued and all claims and objections received upto 09-03-2021 have been disposed of. Thus, the final electoral roll as available on the last date of making nominations (19-03-2021) in the ensuing General Election to Legislative Assembly, 2021 in Kerala has 27446039 electors.

t) It is submitted that the Election Commission of India announced the ensuing General Election to Legislative Assembly in Kerala on 26-02-2021; that is after one month of final publication of electoral rolls and no drawbacks whatsoever were pointed out in respect of the electoral rolls during said period; even by the Writ Petitioner or his political party. Further, prior to announcement of ensuing General Election to Legislative Assembly in Kerala, all members of the Election Commission of India had visited the State in February 2021 and had meetings with all registered National/State Political Parties. However, even in the said meeting, no complaint whatsoever had been raised by any political party in respect of the final electoral rolls.

u) Subsequently, General Election to the Legislative Assembly Constituencies in Kerala was notified on 12-03-2021 and from 26-03-2021, the casting of vote by 'Absentee Voters', that is voters above 80 years of age, persons with disability and COVID 19 suspect or affected voters, voters employed in essential services as notified by the Election Commission has commenced in all 140 Legislative Assembly constituencies in Kerala. Thus, in effect Polling has commenced from 26-03-2021 onwards.

v) Therefore, it is evident from the above that maximum opportunities were given for inclusion and deletion of names from the electoral roll. The preparation and revision of electoral roll was also interrupted at various stages and places due to the spread of Covid-19 pandemic. The preparation and revision of electoral roll were done by the respective Electoral Registration Officers following the Government advisories for containment of Covid-19 pandemic.

w) Therefore, nothing prevented the Petitioner to apply for deletion of names of alleged ineligible persons from the electoral roll. The Petitioner did not utilize the chances and was not diligent and vigilant and has only woken up at the eleventh hour and has submitted Exts. P4 to P4 (d) representations after General Election to the Legislative Assembly Constituencies in Kerala was notified on 12-03-2021.

x) In this context it is pertinent to note instructions contained in letter No. 23/LET/ECI/FUNC/ERD-ER/2019 dated 14-02-2019 issued by the Election Commission of India in regarding preparation of electoral rolls and subsequent changes to it during the election period, relevant portions of which reads as below:

1.(a) After final publication of rolls, no suo-moto deletion shall be done in an election year, Deletion can be done only on the basis of Form 7 or on the basis of a request of deletion made by the concerned elector in declaration part of form 6. If any deletion has to be made in the electoral rolls after the final publication of rolls, i.e. during the period of continuous updation, the ERO shall consult the DEO before making any such deletion. The DEO shall monitor all additions, deletions and corrections from the date of final publication of electoral rolls onwards. In case deletions required in any Assembly Constituency are more than 0.1% of the number of electors in the said constituency in the finally published rolls, the DEO shall take the approval of the CEO before allowing such deletions by the ERO.

(b) After the announcement of elections, no deletion or correction of entries in the electoral rolls shall be done by the ERO either suo-moto or on the basis of forms received. Forms 7, 8, 8A received till the date of announcement of election will be taken up for disposal by the ERO concerned after expiry of the prescribed 7 days notice period. This means, Forms 7, 8, 8A received till the date of announcement of election would be processed as per due procedure till the 10th day from the date of announcement. Forms 7,8,8A received after the announcement of election would be kept separately and shall be taken up for disposal only after completion of election.

(c) Addition of names will be carried on till the last date of filing nominations. All the Forms 6 received till 10 days before the last date of filing nominations shall be disposed of and the Addition Supplement be prepared by the EROs upto the last date of filing of nominations.

2. Preparation of supplement, integration and reprinting of integrated mother roll

(a)Preparation of 1st Supplement- As mentioned in the Commission's letter dated 25.09.2018 mentioned above, the finally published roll is in the form of the basic mother roll (published as integrated draft roll) plus 1st Supplement consisting of all 3 components, namely additions, deletions and corrections, in respect of revision period. At the time of final publication, changes due to deletion and correction supplements are reflected in the basic mother roll. Such integrated mother roll has to be reprinted and the addition supplement along with deletion and modification is appended thereto. The serial number of the first entry of the addition supplement will start in continuation of the last serial number of mother roll, as per the procedure mentioned in the above said letter. It is clarified that such reprinted basic mother roll would not mean a merge/amalgamation of integrated draft roll with the supplements

(addition/deletions/corrections) in respect of revision period. In other words, there would be no changes in the serial numbers of entries appeared in the draft mother roll, due to deletions made during the revision period.

(b) Preparation of 2nd Supplement- On the last day of filing nominations the electoral roll shall be frozen. In respect of additions, deletions and modifications made during the period of continuous updation, after final publication of electoral roll, the 2nd Supplement comprising all 3 components, i.e., addition, deletion and modification shall be prepared by the ERO for use in elections as marked copy/working copy of electoral roll.

3. Preparation of marked copy/working copy – For the purpose of preparing marked copy / working copy of electoral roll, following changes shall be made in the reprinted mother roll, as was published at the time of final publication:-

(a) All additions made during continuous updation period (as in 'Addition' list of 2nd Supplement) shall be added diatonically below the basic mother roll (integrated draft roll) without disturbing / changing the sequence / serial number of electors so added, with the caption “**Additions during Continuous Updation**”.

(b) The deletions and modifications made in 2nd Supplement shall be reflected in the integrated mother roll, on the same pattern as was done at the time of final publications. To differentiate the changes done during continuous updation from the changes made in integrated mother roll at the time of final publication, the words 'DELETED -DELETED' shall be superimposed cross diagonally i.e on the elector detail box concerned, to indicate that the said entry has been deleted in the 'Deletion' list of 2nd Supplement prepared in respect of continuous updation. In the 'Deletion' Supplement, alphabets, 'EE', 'SS', 'QQ', 'RR', or 'MM' as the case may be shall be pre-fixed against serial number of each deleted entry to denote the reason for deletion. 'E', 'S', 'Q', 'R', and 'M' stand for 'Expired', 'Shifted/change of residence', 'Disqualification', 'Respect/duplication' and 'Missing after natural disaster like tsunami, earthquake, flood etc, missing NBW cases ' respectively.

(c) A double hash '##' sign shall be prefixed before serial number of each of the entry corrected in the integrated mother roll to indicate that the entry has been corrected in 'Correction' list of 2nd Supplement but no correction actually should be carried out in the reprinted mother roll, Similarly, photographs of electors corrected in the 'Correction' Supplement will not be added /changed/ corrected in the reprinted mother roll. Photograph of an already registered elector,

received/captured, subsequently/corrected or replaced should be listed in the 'Correction' list and retained therein. Such photographs should not be inserted in the reprinted mother roll while indicating '##' sign against the corrected entry. Instead, in the reprinted mother roll, in the space provided for photograph, the word "**Photo as in Correction list-2**" in bold should be printed. These words should be imprinted over an existing photograph in case the same is wrong or needs to be changed due to any other reason.

(d) In respect of cases where the photo printed in the draft roll is wrong and the correct photo is somehow not available / captured before final publication, the word "Photo Deleted" will be imprinted on the wrong photo on the reprinted mother roll and double '##' sign affixed to indicate the change in the 2nd 'Correction' list, In the Correction list supplement, against the space for photo, there should be no photo and instead, words '**PHOTO DELETED**' should be inscribed.

y) It is further submitted that immediately on receipt of complaints dated 17-03-2021, 18-03-2021 and 19-03-2021 of the Petitioner, alleging duplication of electors in the final electoral rolls of Legislative Assembly constituencies in Kerala, the 2nd Respondent issued letter No. 2720/EL3/2021/Elec dated 17-03-2021 to the District Election Officers concerned to conduct detailed enquiry and to find out the factual position, especially whether there has been any deliberate attempt to register more than once in electoral rolls and to furnish report. The photocopy of letter No. 2720/EL3/2021/Elec dated 17-03-2021 issued by the Chief Electoral Officer, Kerala is produced herewith and marked as **EXHIBIT-R2(e)**. The photocopy of letter No. 2720/EL3/2021/Elec dated 18-03-2021 issued by the Chief Electoral Officer, Kerala is produced herewith and marked as **EXHIBIT-R2(f)**. The photocopy of letter No. 2720/EL3/2021/Elec dated 20-03-2021 issued by the Chief Electoral Officer, Kerala is produced herewith and marked as **EXHIBIT-R2(g)**.

z) Thereafter, with a view to instill public confidence in the electoral system, the 2nd Respondent issued letter No.

2720/EL3/2021/Elec dated 21-03-2021 to all District Election Officers in the State to verify electoral rolls in respective Districts to find out duplications, if any, and to take measures as per statutory provisions to prevent bogus voting. The photocopy of letter No. 2720/EL3/2021/Elec dated 21-03-2021 issued by the 2nd Respondent is produced as **EXHIBIT-R2(h)**.

aa) As regards Uduma incident pointed out by the Petitioner in the Writ Petition, the Assistant Electoral Registration Officer concerned has been placed under suspension by the District Election Officer following on the spot enquiry, wherein lapses were found to have been committed by the said Officer.

ab) In this context, it may be pointed out that the Election Commission is not having independent electoral machinery. The Commission conducts the elections to the Parliament and the Legislature of the States with the help of administrative machinery of the Central/State Government. This is because the framers of the Constitution observed that the provision for an independent machinery to the Election Commission would really be duplicating the machinery and creating unnecessary administrative expense which could easily be avoided by providing that the Commission could borrow from the Provincial Governments such clerical and ministerial agency as may be necessary for the purpose of carrying out its functions at the time of elections and that such staff could return to the Provincial Governments when the election work is over.

ac) The tahsildars are the Electoral Registration Officers nominated by the Election Commission of India under Section 13-B of the Representation of the People Act, 1950 and Deputy tahsildars are the Assistant Electoral Registration Officers

appointed by the Election Commission of India under Section 13-C of the Representation of the People Act, 1950. The Election Commission of India exercise superintendence, direction and control of the preparation of electoral rolls and in view of Section 13-CC of the Representation of the People Act, 1950 Electoral Registration Officers and Assistant Electoral Registration Officers and any other officer or staff employed in connection with the preparation, revision and correction of the electoral rolls shall be deemed to be on deputation to the Election Commission of India for the period during which they are so employed. Further, Section 32 of the Representation of the People Act, 1950 provides for punishment for breach of official duty in connection with the preparation *etc*; of electoral rolls.

ad) It is further submitted that apart from the inbuilt statutory mechanism that is already available for preventing impersonation/bogus voting etc, in the backdrop of the present complaints as regards multiple entry etc in the final electoral roll, the 2nd Respondent has issued detailed guidelines to all District Election Officers in the State in the matter of preventing multiple voting as per letter No. 2720/EL3/2021/Elec dated 23-03-2021. The photocopy of letter No. 2720/EL3/2021/Elec dated 23-03-2021 issued by the 2nd Respondent is produced herewith and marked as **EXHIBIT-R2(i)**.

ae) Further in order to prevent casting of bogus votes the second respondent has issued D.O.No.14/PA/2021/Elec dated. 10-03-2021 instructing all District Election officers in the State to strictly enforce extra preventive measures as mentioned therein to ensure a 'bogus vote' free and fair polling process. The photocopy of D.O.No.14/PA/2021/Elec dated 10-03-2021 issued by the 2nd Respondent is produced as **EXHIBIT-R2(j)**.

af) In this context, it may also be pointed out that in Chapter 18 of the Presiding Officer's Handbook published by Election Commission of India, the process of Verification of Elector's identity and procedure in case of challenge has been clearly explained and it reads as below:

18.2.1 It is expected that polling agents may bring with them a copy of the list of the name of dead, absent and allegedly bogus voters. The contesting candidate or his party may supply similar list to you. Also, you have received among the other polling material the ASD list supplied by the Returning Officer. If any person claims to be an elector, whose name is mentioned in those lists you shall check that person's identity rigorously with the help of his Electoral Photo Identity Card (EPIC) or one of the alternative documents of identification specifically permitted by the Commission. This will not amount to a formal challenge.

18.3.1 The Polling agent can also challenge the identity of a person claiming to be a particular elector by depositing a sum of Rupees 2 in cash with you for each such challenge. You shall hold a summary inquiry into the challenge. If after the enquiry you consider that the challenge has not been established, you shall allow the person challenged to vote. If you consider that the challenge has been established, you shall debar the person challenged from voting and shall handover such person to the police with a written complaint.

18.4.1 Every person, whose name is entered in the electoral Roll and produces a proof of his identity as per the Commission Order, is entitled to vote at the election. Unless, there is a challenge by a candidate or his election or polling agents, or unless you or polling officer is clearly satisfied that he is a bogus voter, it should normally be presumed that the person is genuine voter. If there is a challenge or if you feel any reasonable doubt about the identity of the person from the surrounding circumstances, you should hold a summary inquiry and decide the question.

ag) Further, Para 34.2 of the Handbook for Polling Agent published by the Election Commission of India expressly states that a polling agent will have with him a copy of the electoral roll and also a list of the names of dead, absent and allegedly suspicious voters which have been prepared by the candidate or his party and a copy of this list should also be supplied to the Presiding Officer. If any person claiming to be a voter has his name mentioned in that list, the polling agent should draw the Presiding Officer's attention to that fact and the Presiding Officer will check that person's identity. However, this will not amount to a formal challenge.

ah) Paragraph 10.6.2 of the Handbook of Returning officers published by Election Commission of India provides as follows:-

10.6.2 In addition to the working copies of Electoral Rolls, after distribution of Voters Slips to the Voters, A.S.D. (Absentees, Shifted and Dead) list has to be prepared by the BLOs. The said list is also to be furnished to the Presiding Officer along with Voters list to avert bogus voting. Further, in order to prevent impersonation at the time of poll, the below noted special measures in respect of Absentee, Shifted and Dead electors, are to be followed:

i) List of ASD voters should be prepared polling station wise and it should be ensured that each Presiding Officer is provided with a separate list of Absentee, Shifted and Dead electors (ASD List).

ii) On the day of poll, every elector, whose name appears in such a list, shall have to produce EPIC for his/her identification or any one of the alternative photo identity documents permitted by the Commission. The Presiding Officer shall verify the identification document personally and the details should be properly registered by the Polling Officer concerned in the register of voters in Form 17A.

iii) The First Polling Officer shall inform the Polling Agents about the ASD elector who has come to vote by reading out his/her name loudly.

iv) Thumb impression of such electors shall also be obtained in addition to signature against the column of "signature/thumb impression" of Register of voters (Form 17A). The thumb impression shall be in addition to the signature even in the case of an elector who is a literate and can sign.

v) A declaration shall also be obtained from the ASD electors in the format given below:

ai) In view of the above, it is respectfully submitted that there are enough safeguards and mechanisms within the statute as well in the guidelines issued by the Election Commission of India which empowers the Presiding Officer to prevent bogus/multiple voting. Further, there are also provisions for the agents of political parties and candidates to furnish lists of voters who they think are not entitled to vote in a particular booth by virtue of having multiple entries in the electoral roll.

aj) Besides, arrangements have been made for webcasting of Polls in 20441 Polling Booths, which is one of the force multiplier tools to prevent any possibility of impersonation. Further on the date of poll, political parties are entitled to appoint one Polling Agent and two relief agents in each Polling Station. The important duty of Polling Agent is to help the Presiding Officer to detect and prevent impersonation of voters by challenging persons who try to impersonate voters. Also, adequate security personnel, both CAPF and Kerala Police, are being deployed at

Critical and Vulnerable Polling Stations. In addition to it, as Force Multiplier 'Micro Observers' drawn from Central Government Department and PSUs are being deployed to keep extra vigil at Polling Booth.

ak) Further, Video Conference meetings were held by the 2nd Respondent with all District Election Officers in the State and also the Returning Officers on 25th and 26th of March 2021 to impress upon them the seriousness of the matter and also on the urgency with which the field level verification of multiple entry voters has to be done. Therefore, the Respondents have taken all possible steps to ensure that the sanctity of the electoral roll is maintained and that no person is allowed to cast an unauthorized vote in the ensuing General Election.

al) It is further submitted that Ext. R2(i) instructions issued by the 2nd Respondent are not only issued in the matter of preventing multiple voting by a single voter but also to ensure not to deny genuine voters their right to franchise.

am) As regards, alleged manipulations in electoral rolls and also alleged breach of duty by election staff in the matter of preparation of electoral rolls, the Election Commission of India as well as the Chief Electoral Officer are totally seized of the issue and will continue with the enquiry even after election to find out administrative/technical lapses/short comings, if any, and will take appropriate remedial (disciplinary/penal/technical etc) as is required. However, since the Election Commission of India is the Constitutional repository of sovereign function of timely conduct of election, at present, the focus of the Respondents is on conduct of free and fair election with particular emphasis on prevention of multiple voting even by a single voter and all other

issues will be appropriately dealt with even after the election.

an) Therefore, though as held by the Hon'ble Supreme Court in **Lakshmi Charan Sen v. A.K.M. Hassan Uzzman and others (AIR 1985 SC 1233)** that a perfect electoral roll is not possible, every endeavor has been taken by the Election Commission to provide for a defect free electoral roll. There is a Constitutional mandate for the Election Commission to conduct election on time. All steps have been taken by the Election Commission to ensure a **free** and **fair** and **safe** election in the State."

6. Petitioner has filed a reply affidavit to the counter affidavit filed by the Chief Electoral Officer, Kerala, the 2nd respondent, wherein it is stated as follows:-

"A. The above writ petition is filed as Public Interest Litigation (PIL) to espouse the cause of entire people of Kerala. Reliefs sought are relating to fake and multiple votes were enrolled at large scale which would affect the result of the ensuing election to the Kerala Legislative Assembly materially. The alarming situation created following the fake/multiple entries in the electoral roll may even undermine the whole process of election. Hence the subject matter of writ petition is of grave in nature.

B. In response to the above writ petition, counter affidavit has been filed on behalf of the respondents containing false and untenable contentions and this reply affidavit is necessitated.

C. I further swear that the contentions in the counter affidavit that if the electoral roll containing fake and double vote is

sanitized and those fake and multiple votes are frozen or removed as per my request, it would cause personal gain to me as a contesting candidate is totally a misconceived notion. Being a responsible functionary as Leader of Opposition, it is my bounden duty to bring to the notice of the authorities concerned regarding the patent and glaring multiple and fake entries in the electoral roll so as to rectify the same and thereby ensure a free and fair and impartial election, and not otherwise.

D. Similarly, the contention in the counter affidavit that entertaining the above writ petition would be an interference in the in the electoral process which has been begun since the notification of election to the Kerala Legislative Assembly was made on 12-3-2021 and hence barred under Article 329(b) of the Constitution of India is not legally correct and hence it is liable to be rejected. A cursory look into the prayer itself would reveal that even if the writ petition is allowed as praThe respondents are directed to ensure that sufficient Central and State forces are deployed in all the polling booths especially, in any polling booths found to be in a disturbed area to ensure the directions contained above and also ensure safety of the polling agents of all political parties and also make arrangements for the presence of polling agents of all the political parties in the polling stations. yed for, it would never amount to interference in the electoral process. Authorities quoted in the counter affidavit are not at all applicable to the facts of the above case. There is no prayer in the writ petition for inclusion of any vote after the date of making nomination for election. There is no dispute regarding the dates and events specified in paragraphs Nos.18, 19,20 and 21 regarding the revision of electoral rolls. The respondents are put to strict proof regarding the figures

referred to in the aforesaid paragraphs.

E. Nature of fraud played in the preparation or revision of final electoral roll as pointed out by the petitioner by way of Exhibit P-4 series letters, which is evident from Exhibit P2 and Exhibit P2(a) CD, is totally different from the natural or ordinary errors and omissions which are to be corrected by invoking the method provided under section 22 of the Registration of People Act, 1950. In such a situation, no amendment, transposition or deletion of any entry shall be made after final publication of electoral roll which is prohibited under section 23 of the Representation of People Act, 1950. On going through the allegations made by the petitioner, it is very evident that it is not a case of dead or shifting of residence. But cases of fake and double entries, which were crept in not due to any inadvertent mistake or omission, but due to an intentional act. Fake entries would show that one voter, whose name has been enrolled in the electoral roll at a place, has been repeatedly entered in the electoral roll in different addresses with same name or slightly different names in different addresses and thereby enrolled in the electoral roll more than once with same photograph or other photographs with different name. These types of fake entries are not due to any *bonafide* errors. In some cases, the photograph is same and the name and addresses are either same, slightly different or totally different. Since the aforesaid fake and double entries in the electoral roll across the state are 4.25 lakhs and more, it would be humanly impossible to detect the same by one individual within the short time span and file appeals. As a matter of fact, statute is silent about the remedy in the given situation and hence in such a circumstance it is a fit case in which Election Commission shall exercise its vast powers

explicitly vested with them under Article 324 of the Constitution. On failure to act in pursuance of Exhibit P4 series letters sent to the respondents by the petitioner urging to resolve the serious situation created on account of the large scale fake and double entries in the electoral roll, this Hon'ble Court is totally justified in interfering in the matter with an avowed aim of ensuring free and fair election in the state. In **Union of India vs Association for Democratic Reform (2002(5)SCC 294: 2002 KHC 620)**, the Apex Court held as follows:-

“46. To sum up the legal and constitutional position which emerges from the aforesaid discussion, it can be stated that:

- 1. The jurisdiction of the election Commission is wide enough to include all powers necessary for smooth conduct of election and the word “election” is used in a wide sense to include the entire process of election which consists of several stages and embraces many steps.***
- 2. The limitation on plenary character of power is when Parliament or state Legislature has made a valid law relating to or in connection with elections, the Commission is required to act in conformity with the said provisions. In case where law is silent, Article 324 is a reservoir of power to act for the avowed purpose of having free and fair election. The constitution has taken care of leaving scope for exercise of residuary power by the commission in its own right as a creature of the constitution in the infinite variety of situations that may emerge from time to time in a large democracy, as every contingency could not be foreseen or anticipated by the enacted laws or the rules. By issuing necessary directions, the Commission can fill the vacuum till there is legislation on the subject...”***

F. The averments in para 24 of the counter affidavit that maximum opportunities were given for inclusion and deletion of names to and from the electoral roll and the petitioner did not act is not all correct. Detection of fake and multiple entries in

the electoral roll spreading across the state electoral roll in one constituency as well as in different constituencies across state is not all an easy task, for which expertise technological service is indispensable. Even when the petitioner brought to the notice of the respondents regarding the details of double entries and fake entries by producing Exhibit P1 Chart, Exhibit P2 and Exhibit P2(a) CDs , they did not act even when admitted that the case of fake/multiple entries in the electoral roll pointed out by the petitioner are true. Why the respondents did not take notice of the aforesaid serious manipulations made in the electoral roll is even now shrouded into a mystery. It would indicate that inspite of the vast machinery and powers vested with the respondents, they did not take any efforts to detect those glaring multiple and fake entries. So the allegation that maximum opportunities were given and nothing prevented the petitioner to apply for deletion of names of alleged ineligible persons from the electoral roll is not at all correct. This is not a case of request to delete ineligible persons from the electoral roll, but to sanitize the entire electoral roll by removing multiple entries, fake and fictitious names, the exercise of which would be totally different from removal of ineligible names from the voters list. Complaint made by the petitioner is not at all an individual grievance, but a general grievance against an organized electoral fraud and large scale manipulation of electoral roll which may even undermine the entire electoral process of election.

G. Though it has been stated in the counter affidavit that the 2nd respondent has issued Exhibit R2(e), Exhibit R2(f), Exhibit R2(g) and Exhibit R2(h) letters to the District Election Officers in the state calling upon them to enforce extra preventive measures

against 'bogus vote', nothing has been stated in the affidavit about the factual report of the District Election Officers, which would have been received by the 2nd respondent at least by 23rd March 2021. It is very pertinent to note that despite Exhibit R2(i) communication addressed to all District Election Officers, pinpointing the method of scrutiny to be done so as to detect multiple entries in the electoral roll, the counter affidavit is silent about the action taken pursuant to Exhibit R2(i) communication. From the above, it is very discernible that the respondents are not serious enough to combat this grave issue of multiple/fake entries in the electoral rolls. Averments in para 41 of the counter affidavit that the enquiry regarding the alleged manipulations in the electoral rolls detected would continue even after elections is as good as administering medicine even after death of a person.

H. It is true that the Apex Court in the reported decision rendered in Charan Sen vs AKM Hassan Uzzman and others (AIR 1985 SC 1233) had observed that a perfect electoral roll is not possible. It is very significant to note that such an observation was made by Apex Court in connection with the preparation of electoral roll in the state of West Bengal in the year 1982. There was no advanced technology available to use for the preparation of electoral roll in 1982 and hence such a situation cannot be equated with the present scenario where all foolproof most advanced technological devices are available in abundance and are being used so as to ensure free and fair election. It has been *inter alia* specifically stated in Exhibit R2(i) communication that **"After running the Electoral Rolls through the DSE and Logical Error options available in the ERONET software, multiple entries that show up have to be recorded and a**

booth wise multiple entry voters list of all such voters be prepared". It is really surprising to note that inspite of the above directions issued by the 2nd respondent, under what circumstance, the District Election Officers lost sight of the glaring fake/multiple entries detected by the team appointed by the petitioner in the final electoral roll published on 20th January 2021 and pointed out to the respondents.

I. In the circumstance, in order to ensure a free and fair election, it is highly just and necessary to rectify the electoral roll within the limited time span for which the petitioner would like to submit before this Hon'ble Court following practically possible four step suggestions.

Step No.1. *With a view to ensure that one vote alone is exercised by a voter as observed by this Hon'ble Court in the Interim Order dated 29th March 2021, all BLOs are to be directed to solicit the choice of the voter in writing with signature or thumb impression in advance before election, whose votes are illegally entered in the roll more than once and ensure their option and immediately report the same to the concerned Presiding Officer, and also to all other Presiding Officers in charge of those Polling Booths, where the multiple votes are registered by the voter.*

Step 2: *Take the photograph of the face of each voter immediately after putting ink on his/her finger and obtain an affidavit duly attested by the Presiding Officer to the effect that one vote alone has been exercised by the voter, whose multiple entries are made in the electoral roll.*

Step 3: *The photo should be tagged with Legislative Assembly Constituency (LAC) Number No. (3 digits), Part No. (3 digits) and Sl. No. (4 digits). This will lead to a 10-digit identification no. for each photo. This is required to be stored in a computer or a server based on the availability of internet, and transfer this to the Election Commission of India (ECI), immediately after polling itself.*

Step 4: *After election, in order ensure that no voter has exercised his franchise more than once, check his/her photographs with all other two cores photographs of the voters who participated in the poll by using face recognition technology for which hardly 12 hours time is required."*

7. A statement has also been filed on behalf of the respondents, which is reproduced hereunder:-

“a) It is submitted that the electoral roll is a dynamic roll since electors migrate, new electors join when they become eligible and dead electors have to be deleted. There are detailed SoPs for inclusion as well as deletion from the electoral roll. However, the process of deletion is far more stringent to avoid any wrongful deletion which may deprive an eligible elector from his voting right. As a result, there are instances where an elector gets enrolled at his new residence while not applying for deletion at the old address.

b) For deletion of Demographically Similar Entries (DSEs) such as multiple, duplicate, shifted absentee from electoral roll during pre-revision period and revision period, the Commission has specified a SoP where a thorough procedure with the following measures is adopted:

- ❖ Identification of DSE through Software
- ❖ Table top verification by ERO
- ❖ Field verification through BLOs
- ❖ Taking Form -7 and removal of entries after proper service of notice

c) Further, since the Commission has been receiving complaints about wrongful deletions especially in election year, extra safeguards have been put in, to prevent wrongful deletion as this would deprive the *bonafide* elector from voting, wherein all cases of proposed deletion except death cases, Form-7 is a must. The test/verification is done by EROs, which is further supervised and checked by Dy. DEO/DEO/Roll Observer and CEO. Deletion lists proposed as well as final are shared with political parties and posted on website.

d) To detect such cases, the Commission generates Demographically Similar Entries (DSEs) where the electors with same name, relation's name, age and gender are flagged by the computerised system every month and given to the State/UT CEOs who then get these physically verified by the BLOs. Past experience shows that not all these turn out to be duplicates as in several instances different electors are having same names, father's name, age & gender and hence cannot be deleted. These are marked as Non-DSE in the system (i.e. these are different electors and should not be flagged again as DSE in future).

e) However, since inclusions in the electoral roll continue till the last date of nomination on which date the electoral roll gets frozen there are some DSEs created in last few days that remain in the electoral roll. To ensure that these could not vote twice there is yet another mechanism of generation of ASD list.

f) As no modification/addition/deletion is possible to weed out such discrepancies in electoral roll after the last date of making nominations (i.e: 19th March, 2021 in case of Kerala) and in order to prevent impersonation of Absentee, Shifted and Duplicate/Dead Voters, whose names continue to appear in the electoral rolls, list of such voters (ASD List) is prepared polling station wise and provided to the concerned Presiding Officer. If any person listed in the ASD list turns up for voting, his identity has to be verified thoroughly before allowing the person to vote. At the polling Station, such elector would be required to prove his/her identity by producing either EPIC or any one of the alternative documents prescribed by the Commission for identification. Besides, thumb impression of such elector would

mandatorily be taken in Register of Voters (Form-17A). Extra precautions have been prescribed to be taken at the polling Station so as to ensure that those found in ASD list could not vote more than once. Further as an abundant caution all DEOs have been instructed to capture photographs of all ASD voters.

g) In this context, it may also be pointed out that pursuant to intensive analysis of the data provided by political parties regarding multiple entries in electoral rolls in the State, out of **316671** entries, as on today, the Commission has been able to identify only **38586 DSE** in respect of Legislative Assembly constituencies in the State, the details of which is as given below:

Total DSE in the lists provided by the political parties:	316671		
Matched with DSE of ERONET:	22786		
Matched with No-DSE of ERONET:	15800		
Total matched entries/records:	38586		
	Within Part	Within AC	Across AC
	22812	15771	03

h) Thus, in respect of each of 38586 DSE, physical verification will be conducted by the BLOs and it will be appropriately marked in the A.S.D. (Absentees, Shifted and Dead) list to be prepared by the BLOs and such list will be furnished to the Presiding Officer along with Voters list to avert bogus voting.

i) Therefore, it is herewith affirmatively reiterated that the Respondents have taken all possible steps to ensure that the sanctity of the electoral roll is maintained and that no person is

allowed to cast an unauthorized vote in the ensuing General Election."

8. Ext. P4 letter of the petitioner dated 17.03.2021 addressed to the Chief Electoral Officer, Kerala, Thiruvananthapuram, the 2nd respondent, is reproduced hereunder:-



Ramesh Chennithala
Leader of Opposition
KERALA LEGISLATIVE ASSEMBLY

17.3.2021

Mrs Heena J

I write to appraise your good self on the extremely shocking findings with respect to the Voters list in the State of Kerala.

Kindly note that our workers at the booth level in different assembly constituencies have undertaken the laborious job of verifying each and every voter in the voters list. They have found out startling discrepancies with respect to voter enrollment. It is seen there are lots of voters who are holding more than one voter id and enrolled multiple times in the voters list published on 20th January 2021. If the number was limited to a few, we could have brushed aside this as mistakes from the part of officers. However, the numbers are huge which points towards a concerted effort to sabotage of the whole election process.

To site an example, a single person in UDUMA constituency (003) is found to have 5 different voter ids in the same booth. This person has enrolled herself as Serial numbers 391(voter id : RDQ1489962), 392(RDQ1464478), 581(RDQ1464163), 582 (RDQ1489970), 584(RDQ14644569). Interestingly there are slight differences in the details of the voter either in name or address. As the voters id should be unique for an individual, the presence of multiple voters id for a single person points towards mass sabotage of the election process by some unscrupulous elements. There are also cases where a single person having more than one voter id has enrolled himself in more than one booth.

Likewise, we have been able to unearth many other cases in different constituencies. Our workers are working on mission mode to unearth each and every irregularity in the voter's id. Here are some of the numbers for your reference.

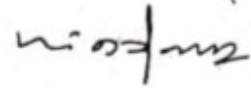
: 2 :

Kazhakuttam : 4506 , Vattiyoorkavu: - 4672, Kollam :2534; Thrikkaripur :- 1436; Koyilandy:-4611, Nadapuram:- 6171. Koothuparamba :-3225; Ambalapuzha :-4750.

For your perusal, we are presenting the sample data of 5 constituencies with the respective photocopies. We will be submitting the details of the rest 135 constituencies soon.

As it is vividly clear that a mass sabotage has been done with respect to the voter's id in Kerala, I request your good self to urgently intervene to sanitize the voters list before the elections.

Yours sincerely,



Ramesh Chennithala

Shri. Teeka Ram Meena
Chief Electoral Officer
Thiruvananthapuram.

9. Ext. P4 (a) letter of the petitioner dated 18.03.2021 addressed to the Chief Electoral Officer, Kerala, Thiruvananthapuram, the 2nd respondent, is reproduced hereunder:-



18/03/2021

Respected Chief Electoral Officer,

In Continuation of my Yesterday's letter, I am to forward herewith a list of ten constituencies regarding discrepancies with respect to voters enrollment. It may be noted that there are lots of voters who are holding more than one Voter ID and enrolled multiple times in the voters list published on 20th Jan 2021. Our workers are working on Mission mode to unearth each and every irregularity in the voter's ID. Here are some of the numbers for your reference.

Kannur (11-Kannur district)	-	1743
Koothuparambu (14- Kannur District)	-	2795
Kalpetta (19 – Wayanad District)	-	1795
Thavanoor (47- Malappuram Dist)	-	4395
Pattambi (50 – Palakkad Dist)	-	2400
Chalakyady (72 – Thrissur Dist)	-	2063
Perumbavoor (74 – Ernakulam Dist)	-	2286
Udumbanchola (89 – Idukki Dist)	-	1168
Vaikom (95 – Kottayam Dist)	-	1606
Adoor (115 – Pathanamthitta Dist)	-	1283

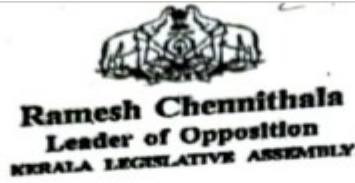
For your perusal, we are presenting the sample data of 10 constituencies with the respective photocopies. I am to request you to rectify the discrepancies after examining the data enclosed at the earliest and take steps to punish the guilty.

Yours Sincerely,

RAMESH CHENNITHALA.

Sri.TEEKA RAM MEENA IAS
Chief Electoral Officer,
Kerala.

10. Ext. P4(b) letter of the petitioner dated 19.03.2021 addressed to the Chief Electoral Officer, Kerala, Thiruvananthapuram, the 2nd respondent, is reproduced hereunder:-



19/03/2021

Respected Chief Electoral Officer,

In Continuation of my earlier letters dtd 17/03/2021 and 18/03/2021, I am to forward herewith a list of Fifty one constituencies regarding discrepancies with respect to voters enrollment. It may be noted that there are lots of voters who are holding more than one Voter ID and enrolled multiple times in the voters list published on 20th Jan 2021. The list of fake voters of 51 constituencies are listed below.

1	48	Ponnani	5589
2	21	Kuttiyadi	5478
3	35	Nilamboor	5085
4	134	Thiruvananthapuram Central	4871
5	65	Wadakkancherry	4862
6	22	Nadapuram	4830
7	81	Thrippunnithura	4310
8	36	Vandoor	4104
9	133	Vattiyoorkavu	4029
10	66	Ollur	3940
11	29	Beyyore	3858
12	85	Thrikkakara	3835
13	24	Perambra	3834
14	56	Palakkad	3750
15	68	Nattika	3743
16	25	Balussery	3708
17	135	Nemom	3692
18	30	Kunnamangalam	3661
19	108	Kayamkulam	3504
20	76	Aluva	3258
21	64	Manaloor	3212
22	75	Angamaly	3161
23	49	Trithala	3005
24	139	Kovalam	2995
25	26	Elathoor	2942
26	55	Malampuzha	2909

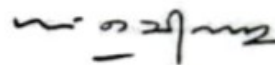
27	86	Moovattupuzha	2825
28	63	Guruvayoor	2825
29	138	Kattakkada	2806
30	67	Thrissur Town	2725
31	137	Parassala	2710
32	71	Puthukkad	2678
33	27	Kozhikode North	2655
34	136	Aruvikkara	2632
35	102	Aroor	2573
36	80	Kochi	2531
37	69	Kaipamangalam	2509
38	106	Kuttanad	2485
39	77	Kalamassery	2375
40	58	Chittoor	2368
41	70	Irinjalakuda	2354
42	52	Ottappalam	2294
43	28	Kozhikode South	2291
44	82	Ernakulam Town	2238
45	54	Mannarkadu	2218
46	104	Alappuzha	2214
47	130	Nedumangad	2208
48	110	Chengannur	2202
49	84	Kunnathunad	2131
50	78	Paravoor	2054
51	127	Varkala	2005
Total			163071

contd...2/-

-2-

We are presenting the sample data of 51 constituencies (18 in hard copies and 33 in softy copy) and to request you to rectify the discrepancies after examining the data enclosed at the earliest and take steps to punish the guilty.

Yours Sincerely,



Ramesh Chennithala

Sri.TEEKA RAM MEENA IAS
Chief Electoral Officer,
Kerala.

11. Ext. P4(c) letter of the petitioner dated 22.03.2021 addressed to the Chief Electoral Officer, Kerala, Thiruvananthapuram, the 2nd respondent, is reproduced hereunder:-



Ramesh Chennithala
Leader of Opposition
KERALA LEGISLATIVE ASSEMBLY

22/03/2021

Respected Chief Electoral Officer,

In Continuation of my earlier letters dtd 17/03/2021, 18/03/2021 and 19/03/2021 regarding large scale discrepancies in the Electoral roll of Kerala. I am to forward herewith more details of the same. It is noted that there are lots of Voters who are holding more than one Voter ID and enrolled multiple times in the voters list published on 20th Jan 2021. In this connection as it is vividly clear that a mass sabotage has been done with respect to the voters id in Kerala, I am once again forwarding detailed data of 131 constituencies and to request you to urgently intervene to sanitize the voters list before the election.

Yours Sincerely,

Ramesh Chennithala

Sri. TEEKA RAM MEENA IAS
Chief Electoral Officer,
Kerala.

12. Ext. P4(d) letter of the petitioner dated 22.03.2021 addressed to the Chief Election Commissioner, Election Commission of India, New Delhi, the 1st respondent, is reproduced hereunder:-



Ramesh Chennithala
Leader of Opposition
KERALA LEGISLATIVE ASSEMBLY

22.3.2021

Respected Chief Election Commissioner,

I write to appraise your good self on the extremely shocking findings with respect to the Voters list in the State of Kerala.

Kindly note that our workers at the booth level in different assembly constituencies have undertaken the laborious job of verifying each and every voter in the voters list. They have found out startling discrepancies with respect to voter enrollment. It is seen there are lots of voters who are holding more than one voter id and enrolled multiple times in the voters list published on 20th January 2021. Out of the 131 constituencies, where we could get the data, we have found 3, 24,291 (Three lakh twenty four thousand two hundred and ninety one) bogus voters. This is only a tip of the iceberg. If the number was limited to a few, we could have brushed aside this as mistakes from the part of officers. However, the numbers are huge which points towards a concerted effort to sabotage of the whole election process.

To site an example, a single person in UDUMA constituency (003) is found to have 5 different voter ids in the same booth. This person has enrolled herself as Serial numbers 391(voter id : RDQ1489962), 392(RDQ1464478) , 581(RDQ1464163), 582 (RDQ1489970), 584(RDQ14644569). Interestingly there are slight differences in the details of the voter either in name or address. As the voters id should be unique for an individual, the presence of multiple voters id for a single person points towards mass sabotage of the election process by some unscrupulous elements. There are also cases where a single person having more than one voter id has enrolled himself in more than one booth. Likewise, we have

-2-

been able to unearth many other cases in different constituencies. Our workers are working on mission mode to unearth each and every irregularity in the voter's id.

Here are some of the numbers for your reference:

Kazhakuttam : 4506 , Vattiyoorkavu: - 4672, Kollam :2534; Thrikkaripur :- 1436; Koyilandy:- 4611, Nadapuram:- 6171. Koothuparamba:- 3225; Ambalapuzha:- 4750.

For your perusal, though we have presented the sample data of 5 constituencies, I am attaching the details of 131 constituencies along with this letter.

Together we have found 3,24,291 number of bogus votes.

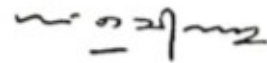
As it is vividly clear that a mass sabotage has been done with respect to the voter's id in Kerala, I request your good self to

Intervene immediately and take urgent steps to sanitise the electoral list before the conduct of elections.

Looking forward for an immediate action,

With warm regards,

Yours sincerely,



Ramesh Chennithala

Shri. Sunil Arora
Chief Election Commissioner
Nirvachan Sadan
Ashoka Road
New Delhi - 110001.

13. Ext. R2(a) letter No. 23/2020-ERS dated 07.08.2020 issued by the Election commission of India, the 1st respondent, reads thus:-

By e-mail/Speed Post

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI -110001

No.23/2020-ERS

Dated: 07th August, 2020

To,

The Chief Electoral Officers of all States & UTs
(except Bihar, Haryana, Maharashtra and UTs of Jammu & Kashmir, Laddakh)

Subject: - Special Summary Revision of Photo Electoral Rolls w.r.t. 01.01.2021 as the qualifying date - Programme - regarding.

Sir/Madam,

I am directed to state that as per existing policy, revision of electoral rolls with reference to 1st January of the coming year as the qualifying date is done in later part of each year in all States/UTs (normally in the last quarter of a year) so that final publication of the electoral rolls could be made in the first week of January of the succeeding year. The revision schedule is prepared in such a manner that the electoral rolls are finally published much before National Voters' Day (25th January of every year) so that EPICs generated for new electors especially young voters (18-19 years) can be distributed to them in ceremonial manner on the day of NVD. The Commission, taking all aspects into consideration, has directed to undertake Special Summary Revision of Photo Electoral Rolls of w.r.t. 01.01.2021 as qualifying date in all the States/UTs (except Bihar, Haryana, Maharashtra and UTs of Jammu & Kashmir, Laddakh) as per the schedule below:-

S.No.	Activity	Period
Pre-revision activities		
1.	(i.) Rationalization/Re-arrangements of Polling Stations. (ii.) Removal of discrepancies of DSEs and EPICs (The DSE within part to be removed by 31.08.2020). (iii.) Recasting of Section/Parts and Finalization of proposed restructuring of section/part boundaries location of polling stations and getting approval of list of polling stations.	10.08.2020 (Monday) to 31.10.2020 (Saturday)

2.	(i.) Preparation of Format 1 to 8, (ii.) Preparation of Supplements and integrated draft roll.	01.11.2020 (Sunday) to 15.11.2020 (Sunday)
Revision Activities		
3.	Publication of Integrated draft electoral roll.	16.11.2020 (Monday)
4.	Period for filing claims & objections	16.11.2020 (Monday) to 15.12.2020 (Tuesday)
5.	Special campaign dates	Two Saturdays and Sundays within claims and objection period to be prescribed by the CEO.
6.	Disposal of claims and objections	By 05.01.2021 (Tuesday)
7.	(i.) Checking of health parameters and obtaining Commission's permission for final publication (ii.) Updating database and printing of supplements	By 14.01.2021 (Thursday)
8.	Final publication of electoral roll	15.01.2021 (Friday)

2. The Commission has decided that the revision shall be a Special Summary Revision with reference to 01.01.2021 as the qualifying date and shall be undertaken as per the above schedule, in accordance with provisions contained in Manual on Electoral Roll, 2016 along with subsequent relevant instructions.

3. The CEO shall go through the schedule and if any minor change in the above schedule is required, a request should be made with full justification to the Secretary/Pr. Secretary in charge of the concerned territorial division in the Commission, for the Commission's approval within seven days from the date of issue of this letter. No change in the schedule approved by the Commission will be permitted, thereafter.

4. Pre-revision activities:-

4.1 As the revision of electoral rolls actually starts with draft publication of electoral rolls, various pre-revision activities are required to be completed well before the actual commencement of Revision of Electoral Rolls, with the sole intention of achieving high fidelity electoral rolls. Accordingly, the CEOs shall ensure the following:-

- a. No family is broken and all the registered family members are kept in the same section and at the same place,
- b. Proper formation and reorganization of sections and parts reflecting correct house numbers, whenever required, would be done through ERO-Net using GIS.
- c. Location of polling stations on ground floor would also be ensured by using ERO-Net.
- d. The electors of so merged/attached in polling stations are not required to travel for more than two kilometer distance and to cross any natural barriers.
- e. Removal of Multiple entries/Dead electors/Permanently Shifted electors through Form -7.
- f. Verification of polling stations and consultation with political parties.
- g. Entry of leftout/prospective electors in the database.

4.2. Before the draft publication exercise of removal of all logical errors, DSEs and standardization of addresses and checking quality of photographs as well as removal of discrepancies in EPICs will be completed in the time bound manner. The list of DSE, logical errors and non-specified photographs will be provided by the ERO-NET team to the CEOs. Soft copy of complete details of Repeat/duplicate EPIC Nos. will also be sent to respective CEOs by ERO-Net team of ECI.

4.3. Rationalization of Polling Stations and Formation of sections:

(i) The activity of Rationalization of Polling Stations is done after 100% physical verification of the polling station locations and the relevant parts of the electoral rolls. However, due to COVID-19 pandemic Commission has decided to take some precautionary measures in conducting the exercise to avoid the spread of disease. In non-poll going states instead of complete rationalization, re-organisation or re-arrangements of Polling stations can be done by undertaking Table Top exercise, taking in to consideration maximum number of electors that can be assigned to a Polling station. Physical verification may also be conducted only in those cases where it has come to notice that the building where polling station has been set up is damaged or in dilapidated condition.

(ii) In election going states activity of Rationalization of Polling stations by undertaking 100% physical verification of the polling station locations, shall be conducted so that it could

be assessed as to whether the building is in proper condition or it meets the other parameters set by the Commission for smooth conduct of poll. A senior officer should be designated by the District Election Officer to perform the work of physical verification.

(iii.) Polling station be rationalized/modified as per the given schedule and before the draft publication of electoral rolls in accordance with instructions contained in Manual on Polling Station, 2016. A new Polling Station shall be created only after rationalizing the sections to the adjacent Polling Stations to the possible extent.

(iv) Other objectives of rationalization of polling stations are to group all the family members and neighbors in a section and maintain uniformity of addresses in ER and EPICs.

(v) For proper formation of Sections the following units may be formed:-

- a) Nuclear/Immediate family (Husband, Wife and eligible children)
- b) Joint Family/Household (Group of several nuclear families related to each other and living at the same place)
- c) Door /Flat No.
- d) Building/Block/Tower consisting of a no. of doors/flats.
- e) Street

(iv) **Standardization of addresses:-**To standardize the address of electors the following fields of addresses shall be maintained while preparing the roll:-

- (a.) House No./ Flat No./Door No. (Name of house, if available)*
- (b.) Floor No. (in case of multi-story building)
- (c.) Building No./Block No./ Tower No. (name of building, if available)
- (d.) Apartment No.
- (e.) Wing
- (f.) Ward No.*
- (g.) Street/ Road/Lane*
- (h.)Sector
- (i.) Area/Locality*
- (j.) Landmark, if any
- (k.) Village/Town/City*
- (l.) Sub-district/Tehsil
- (m.) District*
- (n.)State*

(o.) Pincode*

The fields marked with (*) should be mandatorily mentioned in the electors details, while the remaining fields may be taken as optional fields and be included wherever necessary (like in urban areas). The CEO/DEO may include the other fields in the mandatory category as prevalent in the State/District. Where no House no. as given by the Panchayat/Municipal Authorities is available, the notional number will be given in the roll. In such case, it will be invariably indicated that the House no. is notional. The mandatory address fields will be mentioned in the electoral roll and the same will be reflected as it is in the EPIC of the elector.

(v) The electors will be arranged in the roll in sequence, according to the House no. (and Floor no. of the building).

(vi) While creating a new polling station or re-organizing the existing polling stations by creating/merging/ attaching sections to the adjacent polling stations, the fulfillment of following conditions should be ensured:

- (a) No family is broken and all the family members are kept in the same section and at the same place,
- (b) Electors residing in a building are enrolled in the same part,
- (c) As far as possible electors residing in a Street are enrolled in the same part, and
- (d) The electors of so merged/attached polling station are not required to travel for more than two Kilometer distance and to cross any natural barriers.

4.4 Removal of discrepancies of DSEs and EPICs:-

4.4.1 Demographically Similar Entries (DSEs) are of following types:-

- (i.) Elector repeated within part (with same demographic detail).
- (ii.) Elector repeated within AC (across parts with same demographic detail).
- (iii.) Elector repeated across ACs in a state (across parts with same demographic detail).
- (iv.) Elector repeated across ACs in the country.

4.4.2 Removal of Demographically Similar Entries (DSEs):-

(a) DSEs are thrown by software, on the basis of electors' demographic details such as name, relation type, relation name, gender, DOB, age (exact/plus/minus 1 year) and address.

(b) The ERO shall login and do table top verification on his computer monitor through image comparison of each of the probable DSEs. He shall sort out such entries and put them into 3 buckets - 'match/positive', 'not match/negative' and 'doubtful'.

(c) In respect of probable DSEs where more than one ERO are involved, all the concerned EROs will be able to see the entries relating to their AC as well as the entries repeating in other ACs and the EROs in consultation with each other have to decide as to in which bucket the said DSE should be kept.

(d) The 'not match/negative' entries shall be flagged in the database/UNPER and in future, they will no longer be treated as DSE. For the 'match/positive' and 'doubtful' cases field verification shall be done through BLO checklist and, necessary action will be taken by ERO.

(e) In the cases of 'verified positive DSEs and Multiple Entries, found after BLO field verification through checklists, name of the elector shall be deleted from where he is not residing after obtaining Form-7 from him. The reference number of such Form-7 shall be entered into ERO-Net. If the concerned elector refuses to submit Form-7, ERO will take necessary action for deletion of his name after following due procedure of serving notice for proposed deletion.

(f) Deletion process of DSEs/Multiple Entries within one part/AC under one ERO and across parts/ACs involving more than one ERO :-

- If the probable DSEs/Multiple Entries relate to 'within part' or 'within AC', necessary action shall be taken by the concerned ERO.
- In case of probable DSEs/Multiple Entries relate to across AC in a district, DEO concerned shall coordinate with all EROs of the constituencies involved.
- Concerned DEOs shall supervise the exercise of de-duplication if the probable DSEs/Multiple Entries relate to AC across districts.
- Similarly, in case of probable DSEs/Multiple Entries relating to ACs across states, CIOs of concerned states shall have to coordinate.
- In event of difference of opinion between/among the EROs, field verification should invariably be done by each ERO and further action for deletion taken accordingly.
- There may be a chance when the BLOs of different ACs may report about finding the said person ordinary residing at the given address in his part. In such case personal hearing must be fixed by the EROs to ascertain his actual place of ordinary residence.

4.4.3 There are following types of discrepancies in EPICs :-

- (i) Repeat EPICs. There are two types of Repeat EPICs, which are as follows :-
 - (a.) Multiple EPIC Nos. issued to the same elector; and
 - (b.) Multiple electors with same EPIC number.
- (ii.) EPICs containing more than 10 digit alpha-numeric number.
- (iii.) Two or more states having same serial of alpha-numeric system for EPIC distributed in the Assembly constituencies of the state concerned.
- (iv.) Electors who have not been issued EPICs.

4.4.4 Removal of discrepancies in EPICs:-

- (i.) (a.) In case of the Multiple EPIC numbers issued to same elector, current EPIC number should be retained and multiple entries should be removed.
 - (b.) In cases of Multiple electors with same EPIC number, the EPIC number issued to the first elector shall be retained and all other electors will be given fresh EPIC with new EPIC numbers. The old EPICs from such electors should be collected and destroyed by cutting the same into pieces after keeping a proper record.
- (ii.) Commission has already issued proper standard Operating Procedure for changing Non-standard EPIC number to standard 10-digit Alphanumeric EPIC Number vide its letter dated 29.11.2019. The same may be followed in the matter.
- (iii.) Same EPIC Numbers that are being used by two different states may be identified using IT tools and states concerned may be asked to follow the allotted code for generating standard EPIC numbers.
- (iv.) There is a very small percentage of electors who have not been assigned any EPIC No. in electoral roll. Such electors can be easily identified using available IT tools and EPICs may be issued to them.

5. Draft Publication: Draft publication will be done only after completion of all activities of pre-revision exercises as mentioned in schedule. The CEO will furnish the electors' information in prescribed Formats 1-8 related to draft publication of the electoral roll, along with his studied comments and explanatory memoranda to the Commission, well before draft publication.

6. Display of list of claims and objections-

6.1 As per rule 16 of the Registration of Electors Rules, 1960, ERO shall prepare lists of claims and objections in form 9,10,11 and 11A and exhibit one copy of such lists on a notice board in the his office. Besides, list of all claims and objections received should be put up on the website of CEO so that citizens are able to see the list and lodge objections with the concerned ERO. In addition to this adequate publicity should be given by CEO to the fact that list of claims and objections is available on his/her website and objections can be raised before the EROs based on this list. This should also be informed to the political parties by holding meetings with them and sending written communication to them.

6.2 List of claims and objections should be made available by ERO to all political parties on weekly basis. For this purpose, the ERO should call a meeting of all political parties on regular interval and personally handover list of claims and objections to them and obtain acknowledgment. It is to be added that the list should be incremental instead of cumulative.

7. Decisions on Claims and Objections - Decision on claims and objections should be taken only after all of the following conditions are complied with -

- (i) At least seven clear days' period has passed after list of claims and objections has been published on all of the following -
 - (a.) Website of CEO, as clickable lists for each polling station
 - (b.) Notice board of ERO (In Forms 9, 10, 11 and 11A of RERs 1960)
 - (c.) Notice board of polling station (In Forms 9, 10, 11 and 11A of RERs 1960)
 - (d.) A personal notice has been served on the person whose name is proposed to be deleted in cases other than death cases.
- (ii) At least period of seven clear days has passed after furnishing the list of claims and objections to political parties.

8. Procedure of Deletion:

8.1 Repeat/Multiple Entries: In repeat/ multiple entries reported by individual citizens, BLAs of political parties and RWA representatives, the field verification must be done in each and every

case. Name of the elector to be deleted in electoral roll only at the place where he is not found to be ordinarily residing, after receiving Form -7 from the elector himself.

8.2 Demographically Similar Entries (DSEs), Permanently Shifted and Deceased:

Confirmed cases of DSEs, Permanently Shifted and Deceased may be removed only after Form -7 is received from the elector (in case of DSEs, Permanently Shifted) and near relative/family member (in case of deceased). Notice must be served to the concerned person for removing the entries.

8.3. Safeguards against wrongful deletions: -

Following safeguards will be used to prevent wrongful deletions of electors from electoral roll:-

- i. In case of registered death, deletion shall be made only after proper verification/production of death certificate etc.
- ii. Provision in ERO-Net will be made available wherein all the orders of deletions passed by the AEROs/EROs shall be verified by the Dy. DEOs/ DEOs before making it available in public domain and to give effect in electoral rolls.
- iii. To avoid wrongful deletions, deletions on the ground of death and shifting will be made only when Form- 7 is received.
- iv. While making field verification, BLOs shall give specific remarks in report on the status of shifting/death as the case may be.
- v. For deletion on the ground on shifting, either Form- 6 or Form- 7 from the concerned elector will be taken. Before addition at new place, the ERO will confirm that the elector was actually enrolled at the previous address and he bears the same name as given in Form- 6.
- vi. BLO report will be necessary for deletion.
- vii. In all cases of proposed deletions through Form-7, notice except death cases must be issued to the elector concerned and must be duly served on him. In cases where the elector is not found living at the address in the electoral roll due service of notice must be done by affixation on the wall in the presence of at least two witnesses whose signatures should be obtained on a copy of notice and kept in the file by the Electoral Registration Officer so as to ensure that provisions of rule 21A of the Registration of Electors Rules, 1960 for giving reasonable opportunity of hearing to the person concerned are duly complied with. Only in the case of death, a death certificate or statement of relatives, friends or neighbours can be accepted in lieu of the proof of due service of notice.
- viii. All deletions except those done on the ground of death should be verified by an officer not below the rank of Tehsildar/Deputy Tehsildar before final order is passed on Form 7 and 10% of total deletion (randomly picked by system) should be verified by field visits.
- ix. All cases of deletions must be cross verified personally by Electoral Registration Officer if they fall in any of the following category:-

- a) Deletions in polling stations where the number of deletions exceed 2% of the total electors in the voters' list of the polling stations.
- b) Deletions where the same person is the objector in more than 5 cases.
- x. Cases of deletions other than those made on the ground of death should be cross verified by Supervisors, AEROs and EROs before passing the orders.

9. Supervision and Checks by Supervisor/AEROs/EROs: -

9.1 For the purpose of improving health of electoral roll, the Election Commission has emphasized the need of field verification by the Booth Level Officers. As per the normal practice being followed, the Electoral Registration Officer, after digitization of claims & objections received by him, deposes Booth Level Officer concerned to make field verification in connection with the claim or objection. The Booth Level Officer after on spot verification submits his report to the Electoral Registration Officer.

9.2 There is a mechanism for supervision and check for enforcing strict accountability of the work performed by the Booth Level Officers. The Supervisor who normally has 10 Booth Level Officers under his charge shall verify 5% of each of the Booth Level Officer's verification work under him.

9.3 Above the Supervisors, each Assistant Electoral Registration Officer should verify 1% of the BLO's verification work, randomly selected from different parts under him. Assistant Electoral Registration Officer shall field check households with more than 10 electors; abnormal gender ratio, and the first 20 polling stations with highest number of additions or deletions, under his charge. Assistant Electoral Registration Officer should also separately field check 1% of the additions and deletions, giving focus on such part of electoral rolls where proposed addition of electors is 4% over previous electoral roll. Both, accepted as well as rejected cases, should also be checked in those cases.

9.4 Electoral Registration Officer shall test check the quality of disposal of claims & objections by his Assistant Electoral Registration Officers. He shall check 10% of the Forms disposed by Assistant Electoral Registration Officers. Field verification should be carried out where felt necessary. Electoral Registration Officer shall hold regular monitoring meetings with Assistant Electoral Registration Officers, Supervisors and Booth Level Officers and ensure that the work is not being done in perfunctory manner. Delinquent officials should be taken to task and corrective measures taken swiftly because ultimately the accountability stops with Electoral Registration Officer and the Electoral Registration Officer is responsible for delivering an error free roll.

10. Super-checking by Dy. DEO/DEO/ Roll Observer/CEO:-

10.1 After passing the orders by AERO/ERO, super-checking of verified entries will be done by the Dy. DEO, DEO, Roll Observers and CEO for specific number of entries as randomly selected by ERO-Net. The number of entries to be verified by Dy. DEO, DEO, Roll Observers and CEO are as under:-

- i. *Verification of 100 entries (40 additions+ 40 deletions + 20 modifications) in the District by Dy. DEO. Out of these 100 entries, field verification must be done in a minimum 10 entries. The entries to be verified by the Dy. DEO by table top exercise as well as field verification will invariably include the entries already verified by Supervisors, AERO and ERO.*
- ii. *Verification of 50 entries (20 additions+ 20 deletions + 10 modifications) in the District by DEO. Out of these 50 entries, field verification must be done in a minimum 5 entries. The entries to be verified by the DEO by table top exercise as well as field verification will invariably include the entries already verified by AERO, ERO and Dy. DEO.*
- iii. *Verification of 50 entries each (20 additions+ 20 deletions + 10 modifications) in the assigned Districts by Roll Observer. Out of these 50 entries, field verification must be done in a minimum 5 entries. The entries to be verified by the Roll observer by table top exercise as well as field verification will invariably include the entries already verified by AERO, ERO, Dy. DEO and DEO.*
- iv. *Verification of 500 entries (200 additions+ 200 deletions + 100 modifications) in the state by the CEO. Out of these 500 entries, field verification must be done in a minimum 25 entries. The entries to be verified by the CEO by table top exercise as well as field verification will invariably include the entries already verified by Dy. DEO, DEO and Roll Observer.*

10.2 In case of lapse on the part of any electoral officer responsibility shall be fixed within 7 days.

10.3 For application for fresh registration from applicants above 21 year, declaration or EPIC number will be collected invariably.

11. Flagging of marked electors viz. MP/MLA/MLC, holders of declared offices and personalities from fields of arts, culture, journalism, sports, members of judiciary and public services etc.:

Electoral Registration Officers shall ensure that the names of all Members of Parliament and the State Legislatures, holders of declared offices, personalities from fields of arts, culture, journalism, sports, members of judiciary and public services are there in the proposed draft

electoral roll. To avoid wrongful deletions of the names of such electors in future appropriate flagging should be done in the electoral database.

12. Flagging of Persons with Disabilities (PwDs) in Electoral Database: As Form-6 for enrolment in electoral roll has an optional field for giving information about disabilities, the Commission has directed that all the cases of PwDs electors who have given such information in Form 6 should be flagged in the electoral database along with category of disability so that they can be provided necessary facilities at the polling station at the time of poll. It is made amply clear that such information of disability should not be reflected in electoral roll in any way. Chief Electoral Officer concerned should rope in the concerned department in the State dealing with persons with disabilities to get their assistance in mapping Persons with Disabilities. Chief Electoral Officer, if he feels it necessary, can utilize services of BLOs during H2H visits for collection of such data of PwDs from electors, who are willing to disclose their disabilities. Weekly progress report in this regard may be sent to Secretary/Principal Secretary in charge of the State to review the weekly progress.

13. The Chief Electoral Officer may also designate his own team or request the Election Commission to depute team for further state level checks as felt necessary. Ultimately it is for Chief Electoral Officer to seek the Election Commission's approval to publishing of rolls and for this the Chief Electoral Officer shall give a detailed report on state wide health check of the rolls in the prescribed formats (Format 1-8), deviations noticed, remedial action taken etc. The Chief Electoral Officer shall also furnish an account of the checks maintained and supervision undertaken during the roll revision process and give a certificate on his/her satisfaction on the quality of roll.

14. Monitoring on ERO-Net- EROs/ DEOs shall make weekly review of progress made during the pre-revision and the revision period on ERO-Net Dashboard. The CEO shall monitor and verify the reporting made by EROs/DEOs. It is reiterated for absolute compliance by all the concerned that ERO-Net Dash board shall be visited and verified regularly. Any lapse on part of the concerned officer shall expose him /her to disciplinary actions. The concerned Secretary/Pr. Secretary and Dy. Election Commissioner of the concerned territorial division shall also monitor the process and report the progress to the Commission fortnightly basis. They shall make field visit in the States under their charge atleast once during each of the pre-revision and revision period.

15. Observation:- In addition to Divisional Commissioners, who shall act as Electoral Roll Observers for districts comprised within their Divisions, the Commission may depute its observers/FCI officers/roll auditors to randomly check, audit and supervise the revision process. Hence, it is absolutely essential that all roll related records including reports of progress as well as

lists of the locations where field operations are in progress, should be kept up to date and made available to the observers.

16. Meeting with Political Parties and sharing of electoral rolls: (i) All DEOs and CEO shall separately call meetings of political parties and explain the schedule and seek cooperation expected of them before the date of draft publication. The draft publication should be done on the approved date with due fanfare publicity and the copies of draft rolls should be handed over to recognized political parties in public meeting in the presence of press and media. In any case, proper acknowledgement receipts from the representatives of political parties must be obtained and kept in record.

(ii) The CEO should write to all recognized national and state level political parties informing them the important points of the law and procedures of the revision and seek their cooperation in the roll revision exercise. A copy of letter issued to them may be endorsed to the Commission for record.

(iii) List of claims and objections should also be made available by ERO to all political parties on weekly basis.

(iv) Two copies of complete set of draft Electoral Rolls and Final Electoral Rolls immediately after draft and final publication respectively shall be supplied free of cost to recognized political parties in accordance with the provisions of rule 11(c) and 22 (c) of Registration of Electors Rules, 1960. (Please refer to para 25.3 of Chapter 25 of Manual on Electoral Rolls, 2016 for detailed guidelines in the matter.)

(v) CEO will request to the recognized political parties to identify and appoint Booth Level Agent (BLA) for each polling station who would be associated with BLO during revision period. The BLOs will go through the draft electoral roll with BLAs of recognized political parties of State concerned and identify the corrections, etc. It is pertinent to mention that BLAs once appointed from a recognized political party will continue as BLA, unless their appointment is rescinded /revoked by the political party concerned.

(vi) With a view to ensure more involvement of political parties, the Commission has allowed BLAs of a recognized political parties to file applications in bulk, subject to the condition that a BLA shall not submit more than 10 Forms to BLO at one time/in one day. If a BLA files more than 30 Applications/Forms during entire period of filing claims and objections, then the cross verification must be done by ERO/AERO themselves. Further, the BLA will also submit a list of application forms with a declaration that he has personally verified the particulars of the application forms and is satisfied that they are correct.

17. **Transparency Measures:** In order to facilitate the stakeholders and bringing more transparency in the process of electoral registration, the practice of computerization and posting of all application forms received in Forms 6, 6A, 7, 8 and 8A on the website of the CEO on a day to day basis, shall continue, in addition to putting draft electoral roll, final electoral roll, list of claims and objections on CEOs' website and sharing of the same with recognized political parties. The CEO shall extract a report on status of disposal of claims and objections received during the revision from ERO-Net and put the same on his website on weekly basis, for information of general public/citizens.

18. **Publicity:** - Adequate publicity and awareness drive shall be ensured by DEOs and CEO regarding the summary revision programme. All the DEOs and CEO shall get the revision schedule properly disseminated to media, political parties and social organizations/RWAs and reach out to electors/eligible population extensively well before the date of draft publication of electoral rolls. For making the purpose of publication of draft rolls effective, series of SVEEP events, multiple and periodic meetings with political parties at Taluk, district and state levels and regular press meets may be organized.

19. **Integration of roll:-** Detailed instructions on integration, carrying out corrections and printing of electoral rolls at various stages in an election year, have been issued vide the Commission's letters dated 25th September, 2018 and 14th February, 2019 and 30th July, 2020 the same shall be scrupulously followed during the current round of revision also. **The printing of electoral rolls henceforth shall be done only through ERO-Net.**

So far as the integration of electoral roll is concerned, it is clarified that:-

- i. At the time of draft publication to publish mother roll for SSR, 2021, the final roll of SSR-2020, plus 1 supplement of continuous updation (prepared up to publication of mother (draft) electoral roll for SSR, 2021) will be integrated and amalgamated by bringing family members together. In the aforesaid mother roll (draft) of SSR, 2021, re-serialization of all the entries after removal of deleted entries and bundling the entries of family members would be done. The addition, deletion and modification supplements for SSR, 2021, however will be generated by the ERO through ERO-Net and be kept in record for future reference only.
- ii. At the time of final publication of SSR, 2021, the final roll will be a single integrated one, in which all the addition entries will come with Sl. No. in continuation after the last entry of the mother roll and all the modifications and deletions during summary revision

will be reflected in the mother roll itself, as per the Commission's existing instructions. No separate addition, deletion and modification lists will be printed and given to the political parties, though the EROs will generate these lists from ERO-Net and keep them for their future reference.

iii. (a.) At the time of preparation of electoral roll on the last date of nominations (in case there is an election), to be given to political parties and for preparation of marked copy/working copy, the electoral roll will be an integrated one, however, there will be no bundling of the family members and re-serialization. All the additions made during continuous updation from last final publication date till the last date of making nominations (in case there is an election), will be put in chronological order giving continuous Sl. No. starting with next Sl. No. of last entry in final roll, with all deletions & modifications be marked in last final roll as per Commission's existing instructions. No separate addition, deletion and modification lists will be printed and given to the political parties, though the EROs will generate these lists from ERO-Net and keep them for their future reference.

(b.) All the modified entries, correction made during the period of revision/continuous updation, will be reflected in the integrated roll itself with the sign of (# or ##, as the case may be) to indicate that the entry has been modified. Modified entries in place of old entries in case of any modification carried out shall be reflected in integrated roll and the list of Modifications (to be kept with ERO for future reference) shall contain old entries, on which modifications have been carried out, for tracking the changes whenever required.

20. The Commission's approval for Final Publication:-

(i) The CEO shall take prior written clearance of the Commission for final publication of the electoral rolls and for that purpose a certificate, to the effect that all the cases of dead/DSEs/Shifted/Registered death and un-enrolled electors have been taken into account and disposed of by the ERO concerned, all logical errors have been removed and 100% EPIC and 100% coverage of photographs in Photo Electoral Rolls have been achieved, shall be submitted by the CEO.

(ii) Request for final publication shall be made to the Commission by the Chief Electoral Officer along with Formats 1-8 by 07th January, 2021 and with Formats 1-8 and memoranda/note mandatorily, explaining as to how the roll revision process has achieved the targets fixed and suggesting the strategy to address shortfalls, if any, during next continuous updation. This should,

in any case, be done at least 5 days before the date of final publication, so that clearance of the Commission may be conveyed at least 3 days before the date of final publication.

(iii) It is clarified that Formats 1 to 8 will be generated through ERO-Net. For this, the data of age-cohort wise projected population, entered during the SSR, 2020 shall be updated by the DEOs immediately.

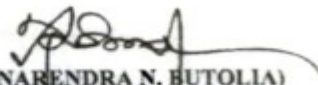
21. It may further be noted that all communications and clarification relating to the revision should be addressed to the Pr. Secretary/Secretary (in charge of the State/UT) in the Commission who will not only reply to the CEO concerned without any delay but also ensure that there is no slippage in the roll revision programme of the States under their charge. They will closely monitor the pre-revision activities and roll revision programme of their respective States/UTs therefore, the CEOs must forward requisite report on progress of revision process at regular interval.

22. The CEOs and all officers are further requested to extensively use the e-mail facility for prompt and accurate exchange of communication.

23. A copy of this letter should also be circulated among all DEOs/EROs in the State for taking immediate appropriate necessary action.

Please acknowledge receipt.

Yours faithfully,


(NARENDRA N. BUTOLIA)
SENIOR PRINCIPAL SECRETARY

14. Ext. R2(b) letter No. 1846/EL3/2020/Elec. dated 30.10.2020 issued by the Chief Electoral Officer, Kerala, the 2nd respondent is reproduced hereunder:-



No. 1846/EL3/2020/Elec.

Thiruvananthapuram,
Dated: 30.10.2020

From

Chief Electoral Officer

To

✓ The President
Indian National Congress,
Kerala Pradesh Congress Committee,
Indira Bhavan, Vellayambalam,
Thiruvananthapuram.

✓ The Secretary
Communist Party of India (Marxist),
State Committee, AKG Centre,
Thiruvananthapuram.

✓ The Secretary
Communist Party of India,
Kerala State Council Office
M.N. Smarakam, Model School Jn.
Thycaud P.O.,
Thiruvananthapuram - 14

The President
Bharathiya Janatha Party,
State Committee Office,
Krishnanjali, Varampasseri Road,
Kunnukuzhi P.O,
Thiruvananthapuram - 35.

The President
Bahujan Samaj Party,
C6L1, Millennium Apartment,
Jagathy, Thiruvananthapuram.

✓ The Chairperson
All India Trinamool Congress,
30-B, Harish Chatterjee Street,
Kolkatta - 700026, West Bengal

The Chairman
Kerala Congress (M),
State Committee Office,
Near Fire Station, Kottayam.

[Contd....2]

2

The General Secretary
Indian Union Muslim League,
Kerala State Committee,
League House, Red Cross Road,
Kozhikode - 32.

The Secretary
Revolutionary Socialist Party,
State Committee Office, Plamoodu, Pattom P.O.
Thiruvananthapuram-14.

The President
Nationalist Congress Party
State Committee Office
T.C 31/137, C-14, Jawahar Nagar, J.J. Lane
Kowdiar, Thiruvananthapuram - 3

The President
Janata Dal (Secular)
State Committee Office
MEADS Lane, Near Jubilee Hospital,
Palayam, Thiruvananthapuram - 34

Sir,

Sub:- Election Department - Special Summary Revision (SSR) of
Electoral Rolls, 2021 - Meeting with Political Parties - reg.

The Election Commission of India has announced Special Summary Revision (SSR) of Electoral Rolls, 2021 with reference to 01.01.2021 as qualifying date. The SSR activities will commence on 16.11.2020 with publication of integrated draft electoral roll and will be completed on final publication of electoral roll on 15.01.2021. The Chief Electoral Officer, Kerala will hold a meeting with you to appraise about the Special Summary Revision in his chamber (Room No.B-57, 4th Floor, Legislative Complex, Vikas Bhavan P.O., Thiruvananthapuram) at 11 AM on 09.11.2020.

Kindly make it convenient to attend the meeting.

Yours faithfully,

REMESH CHANDRAN NAIR N.R.
Joint CEO & Joint Secretary to Govt.
For CEO & Additional Chief Secretary to Govt.

Approved for Issue


Section Officer 30/11/20.

Copy to:- PA to Chief Electoral Officer

15. Ext. R2(d) letter No. 23/KL/2020-21 dated 25.11.2020 issued by the Election Commission of India, the 1st respondent to the Chief Electoral Officer, Kerala, the 2nd respondent is reproduced hereunder:-

ELECTION COMMISSION OF INDIA

NIRVACHAN SADAN, ASHOKA ROAD, NEW DELHI -110001

No.23/KL/2020-21

Dated 25th November, 2020

To,

Chief Electoral Officer,
Kerala,
Thiruvananthapuram.

**Subject: - Special Summary revision Programme w.r.t 01.01.2021 as qualifying date-
Change in Schedule-reg**

Sir,

I am directed to refer to your letter no. 1846/EL3/2020/Elec., dated 11.11.2020, on the subject cited above, and to state that the proposal made therein regarding revised schedule of SSR, 2021 has been considered by the Commission and it has been directed by the Commission that activities of SSR, 2021 may be conducted as per the revised schedule mentioned below :-

Sl.No.	Activity	Period/Date
1.	Period for filing & objections	16.11.2020 (Monday) to 31.12.2020 (Thursday)
2.	Disposal of claims and objections	By 15.01.2021 (Friday)
3.	Final publication of electoral rolls	20.01.2021 (Wednesday)

2. Wide publicity to the modified schedule of SSR, 2021 shall be made through all available media. Political Parties shall be informed of the modified schedule in writing.

Yours faithfully,


(TANUJ KUMARI)
UNDER SECRETARY

16. Ext. R2(j) D.O.No.14/PA/2021/Elec dated 10.03.2021 of the Chief Electoral Officer, Kerala, the 2nd Respondent is reproduced hereunder:-



T.R. Meena. IAS
Chief Electoral Officer
Kerala

D.O.No.14/PA/2021/Elec Dtd. 10/03/2021

As you are aware that in some of the Districts, there are tendencies to caste "Bogus Votes" which are encouraged and abetted by some of the political party candidates.

This diminishes the trust of the people in the fairness and credibility of the polling process. Therefore strong preventive steps need to be taken by the polling personnel deputed in the polling booths, particularly the Presiding Officers and other Polling Officers. To achieve the objective, in addition to the statutory powers, as provided to them in the Manual of Presiding Officers and by RP Acts and Rules of 1950, 51, 1961 etc.

The following extra preventive measures should be enforced strictly during polling process inside and outside the respective polling booths within the radius of 200 mtrs. of the Polling Booths in order to ensure "Bogus Vote" free and fair polling process during this L.A Elections 2021 in Kerala.

1. In the Polling booths, the video camera will be set up in such a manner that the polling agents will not be allowed to stand in front of the camera at any point of time during the voting process.
2. Extra vigil shall be kept in booths where there is only one party agent available especially in single party stronghold areas and in all booths where polling percent was above 85 in the last election especially in Kannur and Kasargod Districts.

3. Special watch should be kept to check indelible ink mark on the finger by the Polling Officers to prevent second time voting. This shall be emphasized during training time.
4. It is clarified that the Presiding Officer can do any duty in the booth including identity card verification and supervisory check to prevent fraudulent voting even in queues if he/she feels so to prevent impersonation. The Presiding Officer is the Supreme Authority to manage the polling process in and around the polling booth.
5. Persons trying for impersonation shall be ruthlessly dealt as per law in this election. Persons trying for impersonation shall be immediately evacuated/handed over to the police from the polling station to avoid disruption of polling at the station.
6. Unduly high cases of voting by the helpers /assisted votes of the blind or infirm voters need to be taken as an alarming signal of Bogus Voting. The Presiding Officers shall send the hourly report to Returning Officers on the number of assisted votes cast in a booth in addition to the other statutory reports.

Yours sincerely,



T.R.Meena

To

All DEOs (14)

17. Though rival contentions have been made on the maintainability of the instant Public Interest Litigation and the scope of interference by the Court under Article 226 of the Constitution of India, after the election process has commenced, inviting the attention of this Court, to the suggestions, made in the reply affidavit, which we have extracted supra, Mr. T. Asaf Ali, reiterated that in view of the multiple entries, no voter should be allowed to cast his vote twice. He further stated that that the respondents have not denied the allegations made in the representations, and no proper verification of multiple entries/ bogus votes, has been done.

18. Inviting the attention of this Court to the steps taken by the Election Commission of India, as narrated in the Statement of facts, Mr. Deepu Lal Mohan, learned standing counsel for the respondents submitted that a specified time-line was already scheduled for deletion/addition and inclusion of voters, and accordingly, final voters list was published. In respect of removal of Demographically Similar Entries (DSE), Election Commission of India has already issued clear instructions on 7.8.2020 to all the Chief Electoral Officers of all the States/UTs and that, the information furnished by the petitioner has been carefully analysed, and the respondents have identified only 38586 DSE, in respect of Legislative Assembly Constituencies, out of 316671 entries.

19. For the above 38586 DSE, physical verification will be conducted by the Booth Level Officers (BLO) and they will be appropriately marked in Absent-Shifted-Dead (ASD); the list will be prepared by the BLOs and such list shall be furnished to the Presiding Officers along with the voters' list. As regards the first suggestion of the petitioner, learned standing counsel for the Election Commission submitted that Election Commission engages the services of the State Government employees, and within the short period of time, it may be possible to make physical verification of all the alleged multiple entries in the voters list.

20. Learned standing counsel for Election Commission further submitted that arrangements have been made for web-casting in 20441 polling booths, to prevent any possibility of impersonation.

21. He also added that Instructions have been issued in respect of ASD list, voters have to submit a declaration under Section 31 of the Representation of Peoples Act, 1951. The voters included in the ASD list have to sign and affix their signature and thumb impression at the time of voting. Only when the indelible ink dried, a voter is allowed to leave the polling booths. ASD list has already been provided to the

political parties, who, in turn, have to be the candidate's polling agents, nominated by them. Instructions have been issued to take the photographs of such ASD voters, in the polling booths. He thus, submitted that all the safeguards and precautionary measures have been taken to prevent multiple voting.

22. Learned standing counsel for the Election Commission of India further submitted that action on the representations submitted by the petitioner has been taken and CD furnished has been analysed. Learned standing counsel further contended that the prayer for deletion of fake/multiple votes, is not maintainable. At this juncture, he submitted that the respondents would take all steps to prevent multiple voting. He further submitted that the process of verification of DSEs is continuing and it will be over by 30.03.2021. Thereafter, ASD list will be given to the Presiding Officer and political parties.

23. Mr. T. Asaf Ali, learned counsel for the petitioner, submitted that though the 2nd respondent - Chief Electoral Officer, has sent letters to the District Election Officer, directing to conduct a detailed enquiry, to find out the factual position, especially whether there is any deliberate attempt to register more than once in Electoral Roll, furnish a factual report before 20.03.2021, and if the allegations are found to be true; the

District Election Officer shall suggest remedial measures, in accordance with the statutory provisions, there is no material, either in the counter affidavit or in the statement filed by the ECI, as regards any report submitted by the concerned District Election Officers.

24. Though the learned counsel for the petitioner proposed a suggestion that all the Block Level Officers be directed by the respondents, to solicit the choice of ASD voters in writing with signature of thumb impression in advance before election, whose votes are illegally entered in the roll more than once and ensure their option and immediately report the same to the concerned Presiding Officer, and also to all other Presiding Officers in charge of those polling booths, where the multiple votes are registered by the voter, and when the learned standing counsel for the Election Commission explained that such an exercise, within the short time, is impracticable, learned counsel for the petitioner submitted that an alternate suggestion be issued to the respondents, to make a public notice cautioning the voters of any attempt to cast multiple votes and that appropriate action would be taken against them by the respondents.

25. Mr. Deepu Lal Mohan, learned standing counsel for the

ECI, submitted such a public notice would be given. Said submission of the learned standing counsel is placed on record.

26. As regards the 3rd suggestion made by the petitioner, the details sought for would be there in the ASD list, and ot in the manner as suggested.

27. As regards the fourth suggestion of the petitioner that after the election, in order to ensure that no voter has exercised his franchise more than once, check his or her photographs with all other two crores photographs of the voters who participated in the polling by using face recognition technology for which hardly 12 hours' time is required, Mr. Deepu Lal Mohan, learned Standing Counsel for the Election Commission of India submitted that the photographs of such ASD voters taken at the polling booths will be collected, digitized, and kept by the respondents.

28. Inviting the attention of this court to the provisions of the Representation of Peoples Act, learned counsel for the petitioner sought for a direction to the Election Commission of India to take the photographs of the voters, challenged. In our view, such a direction cannot be granted, as it would amount to adding something to the Section.

29. Though the learned standing counsel for the Election Commission has raised a question as regards maintainability of the writ petition, after the commencement of election process, considering the issue raised that no voter can be permitted to cast multiple votes, and of the fact that the Election Commission, on an analysis of the information furnished by the petitioner, in the form of CD, has identified multiple entries, to ensure free, fair, and purity of elections, in larger public interest, instant writ petition has been entertained, and accordingly, on 29.03.2021, interim order has been passed.

30. Before considering the contentions advanced, let us have a cursory look at the relevant constitutional and statutory provisions.

“324. Superintendence, direction and control of elections to be vested in an Election Commission.-

(1) The superintendence, direction and control of the preparation of the electoral rolls for, and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice President held under this Constitution shall be vested in a Commission (referred to in this Constitution as the Election Commission)

(2) The Election Commission shall consist of the Chief Election Commissioner and such number of other Election Commissioners, if any, as the President may from time to time fix and the appointment of the Chief Election Commissioner and other Election Commissioners shall, subject to the provisions of any law made in that behalf by Parliament, be made by the President.

(3) When any other Election Commissioner is so appointed the Chief Election Commissioner shall

act as the Chairman of the Election Commission.

(4) Before each general election to the House of the People and to the Legislative Assembly of each State, and before the first general election and thereafter before each biennial election to the Legislative Council of each State having such Council, the President may also appoint after consultation with the Election Commission such Regional Commissioners as he may consider necessary to assist the Election Commission in the performance of the functions conferred on the Commission by clause (1).

(5) Subject to the provisions of any law made by Parliament, the conditions of service and tenure of office of the Election Commissioners and the Regional Commissioners shall be such as the President may by rule determine;

Provided that the Chief Election Commissioner shall not be removed from his office except in like manner and on the like grounds as a Judge of the Supreme Court and the conditions of service of the Chief Election Commissioner shall not be varied to his disadvantage after his appointment:

Provided further that any other Election Commissioner or a Regional Commissioner shall not be removed from office except on the recommendation of the Chief Election Commissioner:

(6) The President, or the Governor of a State, shall, when so requested by the Election Commission, make available to the Election Commission or to a Regional Commissioner such staff as may be necessary for the discharge of the functions conferred on the Election Commission by clause (1).”

31. Representation of Peoples Act, 1950 is an Act to provide the allocation of seats in, and the delimitation of constituencies for the purpose of election to, the House of the People and the Legislatures of States, the qualifications of voters at such elections, the preparation of electoral rolls, the manner of filling seats in the Council of States to be filled by

representatives of Union territories, and matters connected therewith.

32. Part IIA of the Act, 1950 deals with Officers. Section 13A of Part II speaks about Chief Electoral Officers, Section 13AA speaks about District election officers, Section 13B speaks about Electoral registration officers, Section 13C speaks about Assistant electoral registration officers, and Section 13CC speaks about Chief Electoral Officers, District Election Officers, etc., deemed to be on deputation to Election Commission. Sections, 13A, 13AA, 13B, 13C and 13CC read thus:

“13A. Chief electoral officers.—(1) There shall be for each State a chief electoral officer who shall be such officer of Government as the Election Commission may, in consultation with that Government, designate or nominate in this behalf.

(2) Subject to the superintendence, direction and control of the Election Commission, the chief electoral officer shall supervise the preparation, revision and correction of all electoral rolls in the State under this Act.”

“13AA. District election officers.—(1) For each district in a State, the Election Commission shall, in consultation with the Government of the State, designate or nominate a district election officer who shall be an officer of Government:

Provided that the Election Commission may designate or nominate more than one such officer for a district if the Election Commission is satisfied that the functions of the office cannot be performed satisfactorily by one officer.

(2) Where more than one district election officer are designated or nominated for a district under the proviso to subsection (1), the Election Commission shall in the order designating or

nominating the district election officers also specify the area in respect of which each such officer shall exercise jurisdiction.

(3) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall coordinate and supervise all work in the district or in the area within his jurisdiction in connection with the preparation and revision of the electoral rolls for all parliamentary, assembly and council constituencies within the district.

(4) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer.”

“13B. Electoral registration officers.—(1) The electoral roll for each parliamentary constituency in the State of Jammu and Kashmir or in a Union territory not having a Legislative Assembly, each assembly constituency and each Council constituency shall be prepared and revised by an electoral registration officer who shall be such officer of Government or of a local authority as the Election Commission may, in consultation with the Government of the State in which the constituency is situated, designate or nominate in this behalf.

(2) An electoral registration officer may, subject to any prescribed restrictions, employ such persons as he thinks fit for the preparation and revision of the electoral roll for the constituency.”

“13C. Assistant electoral registration officers.—(1) The Election Commission may appoint one or more persons as assistant electoral registration officers to assist any electoral registration officer in the performance of his functions.

(2) Every assistant electoral registration officer shall, subject to the control of the electoral registration officer, be competent to perform all or any of the functions of the electoral registration officer.”

“13CC. Chief Electoral Officers, District Election Officers, etc., deemed to be on deputation to Election Commission.—The officers referred to in this Part and any other officer or staff employed in connection with the

preparation, revision and correction of the electoral rolls for, and the conduct of, all elections shall be deemed to be on deputation to the Election Commission for the period during which they are so employed and such officers and staff shall, during that period, be subject to the control, superintendence and discipline of the Election Commission.”

33. Part III of the Act, 1950 deals with electoral rolls for Assembly Constituencies. Section 15 of Part III speaks about electoral roll for every constituency and it reads thus:

“15. Electoral roll for every constituency.— For every constituency there shall be an electoral roll which shall be prepared in accordance with the provisions of this Act under the superintendence, direction and control of the Election Commission.”

34. Section 21 of the Act, 1950 speaks about preparation and revision of electoral rolls and it reads thus:

“21. Preparation and revision of electoral rolls. - (1) The electoral roll for each constituency shall be prepared in the prescribed manner by reference to the qualifying date and shall come into force immediately upon its final publication in accordance with the rules made under this Act.

(2) The said electoral roll—

(a) shall, unless otherwise directed by the Election Commission for reasons to be recorded in writing, be revised in the prescribed manner by reference to the qualifying date—

(i) before each general election to the House of the People or to the Legislative Assembly of a State; and

(ii) before each bye-election to fill a casual vacancy in a seat allotted to the constituency; and

(b) shall be revised in any year in the prescribed manner by reference to the qualifying date if such revision has been directed by the Election Commission:

Provided that if the electoral roll is not revised as aforesaid, the validity or continued operation of the said electoral roll shall not thereby be affected.

(3) Notwithstanding anything contained in sub-section (2), the Election Commission may at any time, for reasons to be recorded, direct a special revision of the electoral roll for any constituency or part of a constituency in such manner as it may think fit:

Provided that subject to the other provisions of this Act, the electoral roll for the constituency, as in force at the time of the issue of any such direction, shall continue to be in force until the completion of the special revision so directed.”

35. Section 22 of Act, 1950 speaks about correction of entries in electoral rolls and it reads thus:

“22. Correction of entries in electoral rolls.—If the electoral registration officer for a constituency, on application made to him or on his own motion, is satisfied after such inquiry as he thinks fit, that any entry in the electoral roll of the constituency—

(a) is erroneous or defective in any particular,

(b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence within the constituency, or

(c) should be deleted on the ground that the person concerned is dead or has ceased to be ordinarily resident in the constituency or is otherwise not entitled to be registered in that roll,

the electoral registration officer shall, subject to such general or special directions, if any, as may be given by the Election Commission in this behalf, amend, transpose or delete the entry after proper verification of facts in such manner as may be prescribed:

Provided that before taking any action on any ground under clause (a) or clause (b) or any action under clause (c) on the ground that the person concerned has ceased to be ordinarily resident in the constituency or that he is otherwise not entitled to be registered in the electoral roll of that

constituency, the electoral registration officer shall give the person concerned a reasonable opportunity of being heard in respect of the action proposed to be taken in relation to him after proper verification of facts in such manner as may be prescribed.”

36. Section 23 of Act, 1950 speaks about inclusion of names in the electoral rolls and it reads thus:

“23. Inclusion of names in electoral rolls.

— (1) Any person whose name is not included in the electoral roll of a constituency may apply to the electoral registration officer for the inclusion of his name in that roll.

(2) The electoral registration officer shall, if satisfied that the applicant is entitled to be registered in the electoral roll, direct his name to be included therein after proper verification of facts in such manner as may be prescribed:

Provided that if the applicant is registered in the electoral roll of any other constituency, the electoral registration officer shall inform the electoral registration officer of that other constituency and that officer shall, on receipt of the information, strike off the applicant's name from that roll after proper verification of facts in such manner as may be prescribed.

(3) No amendment, transposition or deletion of any entry shall be made under section 22 and no direction for the inclusion of a name in the electoral roll of a constituency shall be given under this section, after the last date for making nominations for an election in that constituency or in the parliamentary constituency within which that constituency is comprised and before the completion of that election.”

37. Section 24 of Act, 1950 speaks about appeals and it reads thus:

“24. Appeals.—An appeal shall lie within such time and in such manner as may be prescribed—

(a) to the district magistrate or additional district magistrate or executive magistrate or district collector or an officer of

equivalent rank], from any order of the electoral registration officer under section 22 or section 23,

(b) to the chief electoral officer, from any order of the district magistrate or the additional district magistrate under clause (a).”

38. Section 31 of Act, 1950 speaks about making false declarations and it reads thus:

“31. Making false declarations.—If any person makes in connection with—

(a) the preparation, revision or correction of an electoral roll, or

(b) the inclusion or exclusion of any entry in or from an electoral roll,

a statement or declaration in writing which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.”

39. Representation of Peoples Act, 1951, is an Act to provide for the conduct of elections of the Houses of Parliament and to the House or Houses of the Legislature of each State, the qualifications and disqualifications for membership of those Houses, the corrupt practices and other offences at or in connection with such elections and the decision of doubts and disputes arising out of or in connection with such elections.

40. Part IV of Act, 1951 deals with administrative machinery for the conduct of elections. Section 20 of Part IV speaks about general duties of chief electoral officers and it reads thus:

“20. General duties of chief electoral officers.—Subject to the superintendence, direction and control of the Election Commission, the chief electoral officer of each State shall supervise the conduct of all elections in the State under this Act.”

41. Section 20A of the Act, 1951 speaks about general duties of district election officer and it reads thus:

“20A. General duties of district election officer.—(1) Subject to the superintendence, direction and control of the chief electoral officer, the district election officer shall coordinate and supervise all work in the district or in the area within his jurisdiction in connection with the conduct of all elections to Parliament and the Legislature of the State.

(2) The district election officer shall also perform such other functions as may be entrusted to him by the Election Commission and the chief electoral officer.”

42. Section 21 of Act, 1951 speaks about returning officers and it reads thus:

“21. Returning officers.—For every constituency, for every election to fill a seat or seats in the Council of States and for every election by the members of the Legislative Assembly of a State to fill a seat or seats in the Legislative Council of the State, the Election Commission shall, in consultation with the Government of the State, designate or nominate a returning officer who shall be an officer of Government or of a local authority:

Provided that nothing in this section shall prevent the Election Commission from designating or nominating the same person to be the returning officer for more than one constituency.”

43. Section 22 of Act, 1951 speaks about Assistant returning officers and it reads thus:

“22. Assistant returning officers. —(1)
The Election Commission may appoint one or more persons to assist any returning officer in the performance of his functions:

Provided that every such person shall be an officer of Government or of a local authority.

(2) Every assistant returning officer shall, subject to the control of the returning officer, be competent to perform all or any of the functions of the returning officer:

Provided that no assistant returning officer shall perform any of the functions of the returning officer which relate to the scrutiny of nominations unless the returning officer is unavoidably prevented from performing the said function.”

44. Section 23 of Act, 1951 speaks about Returning officer to include assistant returning officers performing the functions of the returning officer and it reads thus:

“23. Returning officer to include assistant returning officers performing the functions of the returning officer.—
References in this Act to the returning officer shall, unless the context otherwise requires, be deemed to include an assistant returning officer performing any function which he is authorised to perform under sub-section (2) of section 22.”

45. Section 24 of Act, 1951 speaks about General duty of the returning officer and it reads thus:

“24. General duty of the returning officer.—
It shall be the general duty of the returning officer at any election to do all such acts and things as may be necessary for effectually conducting the election in the manner provided by this Act and rules or orders made thereunder.”

46. Section 26 of Act, 1951 speaks about appointment of presiding officers for polling stations and it reads thus:

“26. Appointment of presiding officers for polling stations.—(1) The district election officer shall appoint a presiding officer for each polling station and such polling officer or officers as he thinks necessary, but he shall not appoint any person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election:

Provided that if a polling officer is absent from the polling station, the presiding officer may appoint any person who is present at the polling station other than a person who has been employed by or on behalf of, or has been otherwise working for, a candidate in or about the election, to be the polling officer during the absence of the former officer, and inform the district election officer accordingly:

Provided further that nothing in this sub-section shall prevent the district election officer from appointing the same person to be the presiding officer for more than one polling station in the same premises.

(2) A polling officer shall, if so directed by the presiding officer, perform all or any of the functions of a presiding officer under this Act or any rules or orders made thereunder.

(3) If the presiding officer, owing to illness or other unavoidable cause, is obliged to absent himself from the polling station, his functions shall be performed by such polling officer as has been previously authorised by the 1 [district election officer] to perform such functions during any such absence.

(4) References in this Act to the presiding officer shall, unless the context otherwise requires, be deemed to include any person performing any function which he is authorised to perform under sub-section (2) or sub-section (3), as the case may be.”

47. Section 27 of Act, 1951 speaks about the general duty of the presiding officer and it reads thus:

“27. General duty of the presiding officer.—It shall be the general duty of the presiding

officer at a polling station to keep order thereat and to see that the poll is fairly taken.”

48. Section 28 of Act, 1951 speaks about the duties of a polling officer and it reads thus:-

“28. Duties of a polling officer.— It shall be the duty of the polling officers at a polling station to assist the presiding officer for such station in the performance of his functions.”

49. Chapter II of Act, 1951 deals with candidates and their agents. Section 40 of Chapter II speaks about election agents and it reads thus:

“40. Election agents.—A candidate at an election may appoint in the prescribed manner any one person other than himself to be his election agent and when any such appointment is made, notice of the appointment shall be given in the prescribed manner to the returning officer.”

50. Section 45 of Act, 1951 speaks about functions of election agents and it reads thus:

“45. Functions of election agents.—An election agent may perform such functions in connection with the election as are authorised by or under this Act to be performed by an election agent.”

51. Section 46 of Act, 1951 speaks about appointment of polling agents and it reads thus:

“46. Appointment of polling agents.—A contesting candidate or his election agent may appoint in the prescribed manner such number of agents and relief agents as may be prescribed to act as polling agents of such candidate at each polling station provided under section 25 or at the place fixed under sub-section (1) of section 29 for the poll.”

52. Section 47 of Act, 1951 speaks about appointment of counting agents and it reads thus:

“47. Appointment of counting agents.—A contesting candidate or his election agent may appoint in the prescribed manner one or more persons, but not exceeding such number as may be prescribed, to be present as his counting agent or agents at the counting of votes, and when any such appointment is made notice of the appointment shall be given in the prescribed manner to the returning officer.”

53. Section 49 of Act, 1951 speaks about functions of polling agents and counting agents and it reads thus:

“49. Functions of polling agents and counting agents.— (1) A polling agent may perform such functions in connection with the poll as are authorised by or under this Act to be performed by a polling agent.

(2) A counting agent may perform such functions in connection with the counting of votes as are authorised by or under this Act to be performed by a counting agent.”

54. Election Commission of India, in their counter affidavit, and statement, have set out the duties of the polling agents. At the risk of repetition, they are extracted hereunder:

18.2.1 It is expected that polling agents may bring with them a copy of the list of the name of dead, absent and allegedly bogus voters. The contesting candidate or his party may supply similar list to you. Also, you have received among the other polling material the ASD list supplied by the Returning Officer. If any person claims to be an elector, whose name is mentioned in those lists you shall check

that person's identity rigorously with the help of his Electoral Photo Identity Card (EPIC) or one of the alternative documents of identification specifically permitted by the Commission. This will not amount to a formal challenge.

18.3.1 The Polling agent can also challenge the identity of a person claiming to be a particular elector by depositing a sum of Rupees 2 in cash with you for each such challenge. You shall hold a summary inquiry into the challenge. If after the enquiry you consider that the challenge has not been established, you shall allow the person challenged to vote. If you consider that the challenge has been established, you shall debar the person challenged from voting and shall handover such person to the police with a written complaint.

18.4.1 Every person, whose name is entered in the electoral Roll and produces a proof of his identity as per the Commission Order, is entitled to vote at the election. Unless, there is a challenge by a candidate or his election or polling agents, or unless you or polling officer is clearly satisfied that he is a bogus voter, it should normally be presumed that the person is genuine voter. If there is a challenge or if you feel any reasonable doubt about the identity of the person from the surrounding circumstances, you should hold a summary inquiry and decide the question.

10.6.2 In addition to the working copies of Electoral Rolls, after distribution of Voters Slips to the Voters, A.S.D. (Absentees, Shifted and Dead) list has to be

prepared by the BLOs. The said list is also to be furnished to the Presiding Officer along with Voters list to avert bogus voting. Further, in order to prevent impersonation at the time of poll, the below noted special measures in respect of Absentee, Shifted and Dead electors, are to be followed:

i) List of ASD voters should be prepared polling station wise and it should be ensured that each Presiding Officer is provided with a separate list of Absentee, Shifted and Dead electors (ASD List).

ii) On the day of poll, every elector, whose name appears in such a list, shall have to produce EPIC for his/her identification or any one of the alternative photo identity documents permitted by the Commission. The Presiding Officer shall verify the identification document personally and the details should be properly registered by the Polling Officer concerned in the register of voters in Form 17A.

iii) The First Polling Officer shall inform the Polling Agents about the ASD elector who has come to vote by reading out his/her name loudly.

iv) Thumb impression of such electors shall also be obtained in addition to signature against the column of "signature/thumb impression" of Register of voters (Form 17A). The thumb impression shall be in addition to the signature even in the case of an elector who is a literate and can sign.

v) A declaration shall also be obtained from the ASD electors in the format given below:

55. Let us consider the periodical instructions issued by the respondents as hereunder:-

(i) Ext. R2(e) letter No. 2720/EL3/2021/Elec dated 17.03.2021 issued by the Chief Electoral Officer, Kerala, the 2nd respondent is reproduced:-

OFFICE OF THE CHIEF ELECTORAL OFFICER

KERALA

No.2720/EL3/2021/Elec.

Thiruvananthapuram,
Dated: 17.03.2021

From

Chief Electoral Officer &
Additional Chief Secretary to Govt.

To

The District Election Officer (In name Cover)
Kasaragod/Kozhikode/Alappuzha/Kollam/Thiruvananthapuram.

Sir,

Sub:- Election Department - Electors have multiple voter ID Cards -
Complaint - reg.

Ref:- Complaint dated 17.03.2021 from Sri. Remesh Chennithala, Leader of
Opposition, Kerala Legislative Assembly.

A copy of the reference cited is forwarded herewith. As the allegations are grave in nature, it warrants immediate action as per statutory provisions. Hence, you shall conduct a detailed enquiry, find out factual position, especially whether there is any deliberate attempt to register more than once in Electoral Roll, furnish a factual report before 20.3.2021. If the allegations are found to be true, you may suggest remedial measures in accordance with statutory provisions. Keeping in view the fair conduct of elections you should give this utmost attention.

Yours faithfully,

Teeka Ram Meena
Chief Electoral Officer

Approved for Issue


Asst-Section Officer



(ii) Ext. R2(f) letter dated 18.03.2021 issued by the Chief Electoral Officer, Kerala, the 2nd respondent is reproduced:-

**OFFICE OF THE CHIEF ELECTORAL OFFICER
KERALA**

No.2720/EL3/2021/Elec.

Thiruvananthapuram,
Dated: 18.03.2021

From

Chief Electoral Officer &
Additional Chief Secretary to Govt.

To

The District Election Officer (In name Cover)
Kannur/Wayanad/Malappuram/Palakkad/Thrissur/Ernakulam/Idukki/
Kottayam/Pathanamthitta.

Sir,

Sub:- Election Department - Electors have multiple voter ID Cards -
Complaint - reg.

Ref:- Complaint dated 18.03.2021 from Sri. Remesh Chennithala, Leader of
Opposition, Kerala Legislative Assembly.

A copy of the reference cited is forwarded herewith. As the allegations are grave in nature, it warrants immediate action as per statutory provisions. Hence, you shall conduct a detailed enquiry, find out factual position, especially whether there is any deliberate attempt to register more than once in Electoral Roll, furnish a factual report before 20.03.2021. If the allegations are found to be true, you may suggest remedial measures in accordance with statutory provisions. Keeping in view the fair conduct of elections, you should give this utmost attention.

Yours faithfully,
Teeka Ram Meena
Chief Electoral Officer

Approved for Issue


Section Officer

(iii) Ext. R2(g) letter dated 20.03.2021 issued by the Chief Electoral Officer, Kerala, the 2nd respondent is reproduced:-

**OFFICE OF THE CHIEF ELECTORAL OFFICER
KERALA**

No.2720/EL3/2021/Elec.

Thiruvananthapuram,
Dated: 20.03.2021

From

Chief Electoral Officer &
Additional Chief Secretary to Govt.

To

The District Election Officer (In name Cover)
Kozhikode/Malappuram/Palakkad/Thrissur/Ernakulam/
Alappuzha/Thiruvananthapuram.

Sir,

Sub:- Election Department - Electors have multiple voter ID Cards -
Complaint - reg.

Ref:- Complaint dated 19.03.2021 from Sri. Remesh Chennithala, Leader of
Opposition, Kerala Legislative Assembly.

A copy of the reference cited is forwarded herewith. As the allegations are grave in nature, it warrants immediate action as per statutory provisions. Hence, you shall conduct a detailed enquiry, find out factual position, especially whether there is any deliberate attempt to register more than once in Electoral Roll, furnish a factual report before 23.03.2021. If the allegations are found to be true, you may suggest remedial measures in accordance with statutory provisions. Keeping in view the fair conduct of elections, you should give this utmost attention.

Yours faithfully,
Teeka Ram Meena
Chief Electoral Officer

Approved for Issue



Section Officer

Copy to : PA to CEO

(iv) Ext. R2(h) letter dated 21.03.2021 issued by the Chief Electoral Officer, Kerala, the 2nd respondent is reproduced:-

**OFFICE OF THE CHIEF ELECTORAL OFFICER
KERALA**

No.2720/EL3/2021/Elec.

Thiruvananthapuram,
Dated: 21.03.2021

From

Chief Electoral Officer

To

All District Election Officers

Sir,


Sub:- Election Department - Electors have multiple voter ID Cards -
Complaint - reg.

As you are aware, elections are to be free, fair and transparent. All the election related officials and BLOs are expected to discharge their duties to uphold these principles. The instruments of election such as Electoral Rolls shall have high fidelity. Recently, complaints have been received, alleging duplication of electors in Electoral Rolls in some of the LACs, which as you know, are being enquired by the respective DEOs. With a view to reassuring public confidence in the electoral system, all the DEOs are directed to verify Electoral Rolls in the respective districts to find out duplications, if any, and take measures as per statutory provisions to prevent bogus voting.

Yours faithfully,

SANJAY KAUL
Additional Chief Electoral Officer
For Chief Electoral Officer

Approved for Issue


Asst. Section Officer



(v). Ext. R2(i) letter dated 23.03.2021 issued by the Chief Electoral Officer, Kerala, the 2nd Respondent, is reproduced hereunder:-

TOP PRIORITY

**OFFICE OF THE CHIEF ELECTORAL OFFICER
KERALA**

No.2720/EL3/2021/Elec.

Thiruvananthapuram,
Dated: 23.03.2021

From

Chief Electoral Officer

To

All District Election Officers

Sir,

Sub:- General Election to LACs, 2021 - Instructions to prevent multiple voting - reg.

1. As a run-up to the General Elections to KLA 2021, the Integrated Electoral Roll consisting of 26731509 voters was published on 20.1.2021. Post this, and until 09.3.2021, a total of 922079 new applications for registration as voters have been received. Based on eligible applications, final Electoral Roll with 27446030 voters has been published on 20.3.2021.

2. Complaints have been received on the sanctity of the published Electoral Rolls (ER) and written documents have been submitted to the CEO's office, claiming multiple entries of voters in the Electoral list. These complaints have been got examined by the DEOs and preliminary enquiry reports indicate the following:

- i) Multiple entries of a voter in the ER.
- ii) Different names with the similar photographs, address and other credentials.
- iii) Different credentials with the same EPIC number.
- iv) The multiple entries are in the same constituency or across different constituencies.
- v) The discrepancies have crept in both advertently and inadvertently.

3. In the normal process of preparation of Electoral Rolls, multiple entries are detected and remedial action is taken using the DSE / Logical Error facility available in the ERONET and also the deduplication software. However, this being an election year, communication No. 23/ERMS/2020 - (Meeting) dated 8.02.2021

of the ECI assumes significance. In this communication, ECI has indicated that 'poll going States/UTs should focus on the speedy disposal of pending forms related to electoral registration and not on DSE and their suo moto deletion. It will be taken care after the election.

4. This being the position, it is quite possible that shortcomings mentioned in para 2 could have been caused due to the limitation of not being able to delete multiple entries of the same voter after publication of the final electoral rolls on 20.03.2021. The sanctity of an electoral roll has to be maintained at all costs, it is this document which is fundamental to the culmination of a free and fair poll. Considering the facts that have come out in the preliminary checks by DEOs, the following instructions are issued for immediate compliance.

- i) As has been indicated earlier, and also during the VC held with DEOs on 20.3.2021, there shall be a thorough scrutiny of the Electoral Rolls across all 140 LACs in the State. The DEOs may put in special teams headed by the EROs and complete this exercise latest by 25.3.2021. It is suggested that the scrutiny can be done in following stages:

Stage 1:- Conducting a software based matching of electors' personal details such as name, relation type, relation name, gender, DOB, age - exact. + - 1 year.

Stage 2:- ERO can use the DSE facility in ERONET and sort them into 3 categories : (1) match, (2) not match and (3) doubtful.

Stage 3:- The ERO shall get the DSEs for images '(1) match' and '(3) doubtful' and through the BLOs a field verification has to be undertaken.

Stage 4:- After running the Electoral Rolls through the **DSE** and **Logical Error** options available in the ERONET software, multiple entries that show up have to be recorded and a booth wise **multiple entry voters** list of all such voters be prepared.

- ii) This booth wise list has to be immediately shared with the BLOs and a field verification done, something that can be done simultaneously when the BLOs go out to give the Voter Information Slips. Based on this list, the voter has to be informed clearly that she/he can cast the vote only once as per existing rules. Any violation will lead to penal action against them. BLOs shall not hand over VIS (Voter Information Slip) to any other person.
- iii) Marking on the status of the voter may done on the multiple voter entry list given to BLO, which may be prepared as part of the ADS list preparation. This exercise has to be completed by 30.3.2021

3

- iv) The ROs may make copies of these multiple voters list and give them to the presiding officers along with ADS list and marked copy of electoral rolls.
- v) On the Polling day, Presiding officers may put a mark on the duplicate voters list given to them to prevent a person voting twice and follow the same procedure prescribed for ASD elector in the Presiding Officer handbook (Chapter 18 - Verification of elector's identity and procedure in case of challenge)
- vi) The Polling officials may make sure that all persons covered in the multiple voters' list have been inked properly with the indelible ink and it has dried off before they leave the booth.
- vii) In case there are abnormally high number of discrepancies found in a particular polling booth and it has not been covered in the webcasting/CCTV plans, the same may be included, under webcasting/CCTV plan.
- viii) All political parties may be given copies of the multiple entry voters' list.
- ix) It is reiterated that absence of any complaint from any polling agent does not absolve the polling officer in charge of identification of a voter, of his duty and responsibility of satisfying himself about the identity of such voter. Any proven impersonation will lead to prosecution of the responsible officer.

5. During the verification mentioned in Sl. No.(i) of para 4, if it is found that any official has been negligent or has deliberately caused multiple entries of a voter to enter the Rolls, stringent disciplinary action may be initiated along with invoking of penal action.

6. The DEOs/ROs shall ensure strict compliance of the above instructions and keep a close supervision and monitor the implementation of it on daily basis and send the Compliance/Action Taken Reports by 30th March.

Yours faithfully,

Teeka Ram Meena
Chief Electoral Officer

Approved for Issue

Section Officer

56. Instructions have been issued periodically by the Election Commission of India, to all the District Electoral Officers in the State in the matter of preventing multiple voting. To ensure fair and free elections, Chief Electoral Officer/2nd respondent has also issued a Demi Official letter dated 10.3.2021 instructing all the District Electoral Officers in the State to strictly enforce extra preventive measures to ensure that there is no bogus voting.

57. Contention of the learned counsel for the petitioner that no proper verification has been done for deletion of multiple votes and thereby to rectify the electoral roll published for the Kerala Legislative Assembly cannot be countenanced for the reason that in the light of the statutory provisions after the publication of the final list, deletion/inclusion cannot be made. As per the instructions contained in letter dated 7.8.2020 of the Election Commission of India addressed to the Chief Electoral Officers of the State and Union Territories, removal of discrepancies in Demographically Similar Entries and Electoral Photo Identity Cards (EPIC) have been done. At the risk of repetition, paragraphs 4.4.1 to 4.4.4 are reproduced:-

“4.4 Removal of discrepancies of DSEs and EPICs:-

4.4.1 Demographically Similar Entries (DSEs) are of

following types:-

- (i.) Elector repeated within part (with same demographic detail)
- (ii.) Elector repeated within AC (across parts with same demographic detail).
- (iii.) Elector repeated across ACs in a state (across parts with same demographic detail).
- (iv.) Elector repeated across ACs in the country

4.4.2 Removal of Demographically Similar Entries (DSE):-

(a) DSEs are thrown by software, on the basis of electors' demographic details such as name, relation type, relation name, gender, DOB, age (exact/plus/minus 1 year) and address.

(b) The ERO shall login and do table top verification on his computer monitor through image comparison of each of the probable DSEs. He shall sort out such entries and put them into 3 buckets - 'match/positive', 'not match/negative' and 'doubtful'

(c) In respect of probable DSEs where more than one ERO are involved, all the concerned EROs will be able to see the entries relating to their AC as well as the entries repeating in other ACs and the EROs in consultation with each other have to decide as to in which bucket the said DSE should be kept.

(d) The 'not match negative' entries shall be flagged in the database/UNPER and in future, they will no longer be treated as DSE. For the 'match/positive' and 'doubtful' cases field verification shall be done through BLO checklist and, necessary action will be taken by ERO.

(e) In the cases of 'verified positive DSEs and Multiple Entries, found after BLO field verification through checklists, name of the elector shall be deleted from where he is not residing after obtaining Form-7 from him. The reference number of such Form 7 shall be entered into ERO - Net. If the concerned elector refuses to submit Form 7, ERO will take necessary action for deletion of his name after following due procedure of serving notice for proposed deletion.

(f) Deletion process of DSEs/Multiple Entries within one part/AC under one ERO and across parts/ACs involving more than one ERO: -

- If the probable DSE/Multiple Entries relate to 'within part' or 'within AC', necessary action shall be taken by the concerned ERO.
- In case of probable DSE/Multiple Entries relate to across AC in a district, DEO concerned shall coordinate with all EROs of the constituencies involved.
- Concerned DEOs shall supervise the exercise of de-duplication if the probable DSE/Multiple Entries relate to AC across districts
- Similarly, in case of probable DSE/Multiple Entries relating to ACs across states, CEOs of concerned states shall have to coordinate.
- In event of difference of opinion between/among the EROs, field verification should invariably be done by each ERO and further action for deletion taken accordingly.
- There may be a chance when the BLOs of different ACs may report about finding the said person ordinary residing at the given address in his part. In such case personal hearing must be fixed by the EROs to ascertain his actual place of ordinary residence.

4.4.3 There are following types of discrepancies in EPICs:

(i) Repeat EPICs. There are two types of Repeat EPICs, which are as follows:

- (a.) Multiple EPIC Nos. issued to the same elector, and
- (b.) Multiple electors with same EPIC number.

(ii.) EPICs containing more than 10 digit alpha-numeric number.

(iii.) Two or more states having same serial of alpha-numeric system for EPIC distributed in the Assembly constituencies of the state concerned.

(iv.) Electors who have not been issued EPICs.

4.4.4 Removal of discrepancies in EPICs:-

(i.) (a.) In case of the Multiple EPIC numbers issued to same elector, current EPIC number should be retained and multiple entries should be removed.

(b.) In cases of Multiple electors with same EPIC number, the EPIC number issued to the first elector shall be retained and all other electors will be given fresh EPIC with new EPIC numbers. The old EPICs from such electors should be collected and destroyed by cutting the same into pieces after keeping a proper record

(ii.) Commission has already issued proper standard Operating Procedure for changing Non standard EPIC number to standard 10-digit Alphanumeric EPIC Number vide its letter dated 29.11.2019. The same may be followed in the matter.

(iii) Same EPIC Numbers that are being used by two different states may be identified using IT tools and states concerned may be asked to follow the allotted code for generating standard EPIC numbers.

(iv.) There is a very small percentage of electors who have not been assigned any EPIC No. in electoral roll. Such electors can be easily identified using available IT tools and EPICs may be issued to them.”

58. Attention was also invited to Rule 49-J and 49-K of the Conduct of Election Rules, 1961. Rule 49-J of the Conduct of Election Rules, 1961, speaks about challenging of identity and it reads thus:-

"49-J. Challenging of identity.— (1) Any polling agent may challenge the identity of a person claiming to be a particular elector by first depositing a sum of two rupees in cash with the presiding officer for each such challenge.

(2) On such deposit being made, the presiding officer shall—

(a) warn the person challenged of the penalty

for personation;

(b) read the relevant entry in the electoral roll in full and ask him whether he is the person referred to in that entry;

(c) enter his name and address in the list of challenged votes in Form 14; and

(d) require him to affix his signature in the said list.

(3) The presiding officer shall thereafter hold a summary inquiry into the challenge and may for that purpose-

(a) require the challenger to adduce evidence in proof of the challenge and the person challenged to adduce evidence of proof of his identity;

(b) put to the person challenged any questions necessary for the purpose of establishing his identity and require him to answer them on oath; and

(c) administer an oath to the person challenged and any other person offering to give evidence.

(4) If, after the inquiry, the presiding officer considers that the challenge has not been established he shall allow the person challenged to vote; and if he considers that the challenge has been established, he shall debar the person challenged from voting.

(5) If the presiding officer is of the opinion

that the challenge is frivolous or has not been made in good faith, he shall direct that the deposit made under sub-rule (1) be forfeited to Government and in any other case, returned to the challenger at the conclusion of the inquiry."

Rule 49-K of the said Rules, 1961, speaks about the safeguards against personation and it reads thus:

"49-K. Safeguards against personation.— (1)

Every elector about whose identity the presiding officer or the polling officer, as the case may be, is satisfied, shall allow his left forefinger to be inspected by the presiding officer or polling officer and an indelible ink mark to be put on it.

(2) If any elector—

(a) refuse to allow his left forefinger to be inspected or marked in accordance with sub-rule (1) or has already such a mark on his left forefinger or does any act with a view to removing the ink mark, or

(b) fails or refuses to produce his identity card as required by sub-rule (3) of Rule 49H he shall not be allowed to vote.

(3) Where a poll is taken simultaneously in a Parliamentary constituency and an assembly constituency, an elector whose left forefinger has been marked with indelible ink or who has produced his identity card at one such election, shall notwithstanding anything contained in sub-rules (1) and (2) be permitted to cast his vote for the other election.

(4) Any reference in this rule to the left forefinger of an elector shall, in the case where the

elector has his left forefinger missing, be construed as a reference to any other finger to his left hand, and shall, in the case where all the fingers of his left hand are missing, be construed as a reference to the forefinger or any other finger of his right hand, and shall in the case where all his fingers of both the hands are missing be construed as a reference to such extremity of his left or right arm as he possesses."

59. Though several factors such as name, relation, date of birth etc. have been considered for verification of Demographically Similar Entries and Electoral Photo Identity Cards, presumably photographs of the voters are not included, as one of the factors in such verification. At this juncture we only observe that Election Commission of India can explore the possibility of including the photographs of the voters in the software, as an additional factor for identification of Demographically Similar Entries and Electoral Photo Identity Cards to identify multiple entries and take action for removal, before the final list is published.

60. Though the learned counsel for the petitioner submitted that in as much as no action was taken on the representation, and hence, the petitioner was constrained to file the instant writ petition for the reliefs stated supra, perusal of the statement indicates that acting on the representations and

details furnished, action has been taken to identify DSE/EPIC.

61. On the contention that the DEOs have not submitted any reports and not annexed, either in the counter affidavit or the statement filed by the respondents, it is evident from the averments made by the respondents, that only after collecting the details of DSE from the DEOs, respondents can submit the figures. On the second prayer, the respondents have stated that they have taken cognizance of the matter. It involves an enquiry and, therefore, at this stage, we cannot grant the reliefs as prayed for by the petitioner.

62. The respondents and all the functionaries under the election laws, in any manner concerned with the right to exercise the franchise, conduct, supervise and control of free and fair elections, are directed to take all the possible steps, to prevent double voting or impersonated voting.

63. After finalising the verification of DSE/EPIC/ASD, list be furnished to the political parties and Presiding Officers, forthwith.

64. Respondents are also directed to cause a public notice cautioning the voters of any attempt to cast multiple votes, stating that strict action will be taken by the respondents, in

accordance with the laws.

65. Respondents shall take photographs of all ASD voters identified, in the polling booths.

66. Respondents shall also obtain the declaration of all the ASD voters, in terms of Section 31 of Representation of Peoples Act, 1951.

67. Respondents shall also get the signature and thumb impression of all the ASD voters.

68. Giving due consideration to the judgments cited, that free and fair elections are part of democratic rights of the citizens, respondents are directed to permit 'Absent-Shifted-Dead' (ASD) voters, to leave the polling booths, only after the indelible ink is dried.

69. Based on the submissions of learned standing counsel for the Election Commission, all the photographs of the ASD voters taken in the booths be collected, digitized and kept by the respondents.

70. All the safeguards provided in the Act for free and fair election be scrupulously followed to avoid multiple/bogus voting. Fair, free and purity of elections be maintained.

71. The respondents are also directed to ensure that sufficient Central and State forces are deployed in all the polling booths, especially in any polling booths found to be in a disturbed area, to ensure the directions contained above, and also ensure safety of the polling agents of all the political parties, and also make arrangements for the presence of polling agents of all the political parties in the polling stations.

With the above directions, writ petition is disposed of.

**Sd/-
S. MANIKUMAR
CHIEF JUSTICE**

**Sd/-
SHAJI P. CHALY
JUDGE**

Eb

///TRUE COPY///

P. A. TO JUDGE

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1** A DETAILED CHART SHOWING THE NUMBER OF DOUBLE VOTES ENROLLED IN ELECTORAL ROLL AND THE NAME OF RESPECTIVE ASSEMBLY CONSTITUENCIES AS COMPLIED FROM THE CD.
- EXHIBIT P2** COMPACT DISC (CD) PRODUCED BY THE EXPERT COMMITTEE APPOINTED BY THE PETITIONER SHOWING THE DETAILS OF DOUBLD VOTES IN 131 ASSEMBLY CONSTITUENCIES IN THE STATE.
- EXHIBIT P2 (A)** COMPACT DISC (CD) PRODUCED BY THE EXPERT COMMITEE APPOINTED BY THE PETITIONER SHOWING THE DETAILS OF BOGUS VOTES IN 131 ASSEMBLY COINSTITUENCIES IN THE STATE.
- EXHIBIT P3** TRUE COPY OF THE RELEVANT ENTRIES IN THE ELECTOR ROLL OF THE IN NO.3 UDUMA ASSEMBLY CONSTITUENCY CONTAINING 5 ENTRIES SAMPLE VOTER NAME KUMARI ALONG WITH ENGLISH TRANSLATION.
- EXHIBIT P4** TRUE COPY OF THE LETTER DATED 17.3.2021 SENT TO THE 2ND RESOPNDENT BY THE PETITIONER
- EXHIBIT P4 (A)** TRUE COPY OF THE LETTER SENT ON 18.3.2021 TO THE 2ND RESPONDENT BY THE PETITIONER.
- EXHIBIT P4 (B)** TRUE COPY OF THE LETTER DATED 19.3.2021 SENT TO THE 2ND RESPONDENT BY THE PETITIONER.
- EXHIBIT P4 (C)** TRUE COPY OF THE LETTER DATED 22.3.2021 SENT TO THE 2ND RESPONDENT BY THE PETITIONER.
- EXHIBIT P4 (D)** TRUE COPY OF THE LETTER DATED 22.3.2021 SENT TO THE 1ST RESPONDENT BY THE PETITIONER IS PRODUCED.

EXHIBIT P5

**TRUE COPY OF THE NEWS REPORT PUBLISHED
BY TIMES OF INDIA,DAILY DATED
23.3.2021.**

EXHIBIT P5 (A)

**TRUE COPY OF THE NEWS REPORT PUBLISHED
BY THE TIME OF NOTICE DATED 23.3.2021
CONTAINING A NEWS REPORT UNDER THE
CAPTION "BOGUS VOTERS:EC CONFIRMS
CHENNITHALA'S ALLEGATION.**