

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Monday, the 29th day of March 2021/8th Chaithra, 1943

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

PETITIONER

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

RESPONDENTS

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

Writ Petition (civil) praying inter alia that in the circumstances stated in the affidavit filed along with the WP(C) the High Court be pleased to issue an interim order directing Respondents 1 and 2 to ensure that fake/multiple entry voters in the electoral roll for the election to the Kerala Legislative Assembly, which is scheduled to be held on 6th April 2021, are not permitted to vote .

This petition coming on for admission upon perusing the petition and the affidavit filed in support of WP(C) and upon hearing the arguments of M/S T.ASAFALI, LALIZA.T.Y., Advocates for the petitioner and of M/S DEEPU LAL MOHAN, Advocate for the respondents, the court passed the following:

P.T.0

EXHIBIT P-1 - A DETAILED CHART SHOWING THE NUMBER OF DOUBLE VOTES ENROLLED IN ELECTORAL ROLL AND THE NAME OF RESPECTIVE ASSEMBLY CONSTITUENCIES AS COMPILED FROM THE CD.

EXHIBIT P-2 - COMPACT DISC(CD)PRODUCED BY THE EXPERT COMMITTEE APPOINTED BY THE PETITIONER SHOWING THE DETAILS OF DOUBLE VOTES IN 131 ASSEMBLY CONSTITUENCIES IN THE STATE.

EXHIBIT P-2(a) - COMPACT DISC(CD)PRODUCED BY THE EXPERT COMMITTEE APPOINTED BY THE PETITIONER SHOWING THE DETAILS OF BOGUS VOTES IN 131 ASSEMBLY CONSTITUENCIES IN THE STATE.

EXHIBIT P-3 - TRUE COPY OF THE RELEVANT ENTRIES IN THE ELECTOR ROLL OF THE IN NO.3 UDUMA ASSEMBLY CONSTITUENCY CONTAINING 5 ENTRIES SAMPLE VOTER BY NAME KUMARI ALONG WITH ENGLISH TRANSLATION.

EXHIBIT P-4 - TRUE COPY OF THE LETTER DATED 17.3.2021 SENT TO THE 2ND RESPONDENT BY THE PETITIONER

EXHIBIT P-4(a) - TRUE COPY OF THE LETTER SENT ON 18.3.2021 TO THE 2ND RESPONDENT BY THE PETITIONER.

EXHIBIT P-4(b) - TRUE COPY OF THE LETTER DATED 19.3.2021 SENT TO THE 2ND RESPONDENT BY THE PETITIONER.

EXHIBIT P-4(c) - TRUE COPY OF THE LETTER DATED 22.3.2021 SENT TO THE 2ND RESPONDENT BY THE PETITIONER.

EXHIBIT P-4(d) - TRUE COPY OF THE LETTER DATED 22.3.2021 SENT TO THE 1ST RESPONDENT BY THE PETITIONER IS PRODUCED.

S. MANIKUMAR, C. J. & SHAJI P. CHALY, J.

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W. P. (C) No. 8034 of 2021 (S)

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Dated this the 29th day of March, 2021

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ORDER

S. Manikumar, C. J.

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.

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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:-

Candidate	Match 1
 Candidate	 Match 1
CONSTITUENCY : 134 NAME : Cynthia Antony BOOTH NO : 122 SERIAL NO : 6 ID NO : hbx1365964	CONSTITUENCY : 134 NAME : SINIYA ANTONY BOOTH NO : 126 SERIAL NO : 1237 ID NO : YUC9587767 DISTANCE : 0.25
Candidate	Match 1
 Candidate	 Match 1
CONSTITUENCY : 134 NAME : MAHESH M BOOTH NO : 82 SERIAL NO : 799 ID NO : YUC9547340	CONSTITUENCY : 134 NAME : MAHESH M BOOTH NO : 82 SERIAL NO : 798 ID NO : YUC9547241 DISTANCE : 0.0
Candidate	Match 1
 Candidate	 Match 1
CONSTITUENCY : 134 NAME : Vasudevan BOOTH NO : 89 SERIAL NO : 580 ID NO : YUC9496985	CONSTITUENCY : 134 NAME : MOHANAN NAIR BOOTH NO : 79 SERIAL NO : 1231 ID NO : YUC9583824 DISTANCE : 0.26
Candidate	Match 1
 Candidate	 Match 1
CONSTITUENCY : 134 NAME : Harshana Beegam M S BOOTH NO : 163 SERIAL NO : 62 ID NO : YUC0923599	CONSTITUENCY : 134 NAME : Harshana Beegam S BOOTH NO : 163 SERIAL NO : 27 ID NO : YUC0923730 DISTANCE : 0.0
Candidate	Match 1
 Candidate	 Match 1
CONSTITUENCY : 134 NAME : George Pereira Mathew BOOTH NO : 50 SERIAL NO : 573 ID NO : YUC9492026	CONSTITUENCY : 134 NAME : George Pereira Mathew BOOTH NO : 50 SERIAL NO : 504 ID NO : YUC9491978 DISTANCE : 0.13

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.

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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 to the 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 has 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.

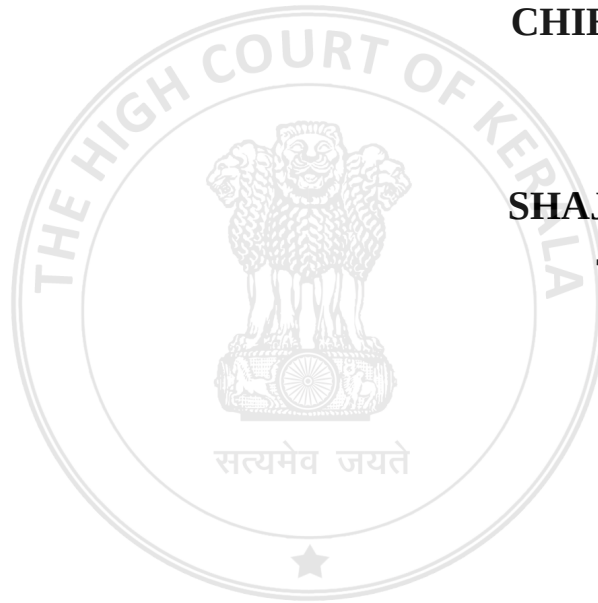
Mr. Deepu Lal Mohan, learned Standing Counsel for the Election Commission of India, is directed to file a counter affidavit tomorrow, with supporting documents. Mr. T. Asaf Ali, learned

counsel for the petitioner, is permitted to file additional documents required.

Registry is directed to post the matter 30.03.2021.

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

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



H/o

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