

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRAN

FRIDAY, THE 12TH DAY OF FEBRUARY 2021 / 23RD MAGHA, 1942

W.P. (C) No.3025 OF 2021 (C)

PETITIONER/S:

AJITHA K.  
AGED 42 YEARS  
W/O. SRENDRAN.C., PPK BHAVAN, PATTANUR, THALASSERY  
TALUK, KANUR 670 595.

BY ADV. SRI.PRANOY K.KOTTARAM

RESPONDENT/S:

- 1 THE RETURNING OFFICER  
ELECTION TO THE PATTANUR VILLAGE VANITHA CO-OPERATIVE  
SOCIETY KOLAYAD UNIT INSPECTOR, OFFICE OF THE ASST.  
REGISTRAR (GENERAL), KUTHUPARAMBA, KANNUR 670 643.
- 2 THE SUPERINTENDENT OF POLICE,  
OFFICE OF THE SUPERINTENDENT OF POLICE, TALAP, KANNUR  
670 002.
- 3 CIRCLE INSPECTOR OF POLICE,  
POLICE STATION, MATTANNUR, KANNUR, 670702.
- 4 THE SECRETARY,  
PATTANUR VILLAGE VANITHA CO-OPERATIVE SOCIETY  
LIMITED, NO. C. 1254, PATTANUR (P.O.), KANNUR 670  
595.

OTHER PRESENT:

SRI GRASHIOUS KURIAKOSE (SR) FOR PETITIONER ; SRI  
SUNIL NATH N.B- GOVERNMENT PLEADER ; SRI LAKSHMI  
NARAYAN - R1 ; SRI SIVARAMAN P.L - R4

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
12.02.2021, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

## **JUDGMENT**

The petitioner, who is the President of the managing committee of Pattanur Village Vanitha Co-operative Society Ltd., has filed this writ petition under Article 226 of the Constitution of India, seeking a writ of mandamus commanding the 1<sup>st</sup> respondent to verify the validity of the identity card of each voter with the Form 6B register maintained in the Society, in the presence of the 4<sup>th</sup> respondent Secretary in the election to the managing committee of the Pattanur Village Vanitha Co-operative Society Ltd, scheduled to be conducted on 14.02.2021. The petitioner has also sought for a writ of mandamus commanding the respondents to take all necessary steps for conducting fair and transparent election to the new managing committee of Pattanur Village Vanitha Co-operative Society.

2. Going by the averments in the writ petition, election to the new managing committee of the Society in question is scheduled to be held on 14.02.2021. In connection with the previous election to the managing committee of the Society, the Co-operative Arbitration Court (Northern), Kozhikode by order dated 10.01.2014, found certain irregularities in the conduct of election. The petitioner submitted Ext.P1 representation dated

30.01.2021 before the 1<sup>st</sup> respondent Returning officer; the 2<sup>nd</sup> respondent Superintendent of Police, Kannur; and also the 3<sup>rd</sup> respondent Circle Inspector of Police, Mattannur, Kannur and thereafter, moved this writ petition seeking the aforesaid reliefs.

3. On 05.02.2021, when this writ petition came up for admission, the learned Government Pleader was directed to get instructions.

4. On 11.02.2021, the learned Standing Counsel for State Co-operative Election Commission took notice on admission for the 1<sup>st</sup> respondent Returning Officer. The learned Government Pleader took notice on admission for respondents 2 and 3 and urgent notice on admission by e-mail was ordered to 4<sup>th</sup> respondent, returnable by 12.02.2021. The learned counsel for the petitioner was directed to furnish the e-mail ID and also a scanned copy of this writ petition to the Registry.

5. Heard the learned Senior Counsel for the petitioner, the learned Standing Counsel for the State Co-operative Election Commission for the 1<sup>st</sup> respondent Returning Officer, the learned Government Pleader for respondents 2 and 3 and also Sri. Adv. P. L. Sivaraman, the learned counsel for the 4<sup>th</sup> respondent.

6. The Kerala Police Act, 2011 is enacted to consolidate

and amend the law relating to the establishment, regulation, powers and duties of the Police Force in the State of Kerala and for matters connected therewith and incidental thereto. Chapter II of the Act deals with duties and functions of Police. Section 3 of the Act deals with general duties of Police. As per Section 3, the Police, as a service functioning category among the people as part of the administrative system shall, subject to the Constitution of India and the laws enacted thereunder, strive in accordance with the law, to ensure that all persons enjoy the freedoms and rights available under the law by ensuring peace and order, integrity of the nation, security of the State and protection of human rights. Section 4 of the Act deals with functions of Police. As per Section 4, the Police Officers shall, subject to the provisions of the Act, perform the functions enumerated in clauses (a) to (s) of Section 4. As per clause (a), the Police Officers shall enforce the law impartially; and as per clause (b), the Police Officers shall protect the life, liberty, property, human rights and dignity of all persons in accordance with the law.

7. Lord Denning in 'The Due Process of law' [First Indian Reprint 1993, Page 102] has described the role of the Police thus;

"In safeguarding our freedoms, the police play vital role. Society for its defence needs a well-led, well-

trained and well-disciplined force or police whom it can trust, and enough of them to be able to prevent crime before it happens, or if it does happen, to detect it and bring the accused to justice.

The police, of course, must act properly. They must obey the rules of right conduct. They must not extort confessions by threats or promises. They must not search a man's house without authority. They must not use more force than the occasion warrants."

8. In **Manohar Lal Sharma v. Principal Secretary [(2014) 2 SCC 532]** the Apex Court held that, one of the responsibilities of the police is protection of life, liberty and property of citizens. The investigation of offences is one of the important duties the police has to perform. The aim of investigation is ultimately to search for truth and bring the offender to the book. The Apex Court reiterated the said principle in **Ankush Maruti Shinde v. State of Maharashtra [(2019) 15 SCC 470]**.

9. The learned Standing Counsel for the State Co-operative Election Commission would submit that the 1<sup>st</sup> respondent Returning Officer shall take necessary steps to ensure free and fair election to the managing committee of the Society in question. Videograph of the process of the election can be arranged at the request of the petitioner, on condition that the

entire expense has to be met by the petitioner herself.

10. The learned Government Pleader, on instructions, would submit that the 3<sup>rd</sup> respondent Circle Inspector of Police shall take necessary steps for the smooth conduct of the election, taking note of the directions contained in Circular No.28/2013 of the State Police Chief dated 20.11.2013.

11. In such circumstances, this writ petition is disposed of by directing respondents 2 and 3 to ensure smooth conduct of election to the managing committee of Pattanur Village Vanitha Co-operative Society Ltd., which is scheduled to be held on 14.02.2021, strictly in accordance with the directions contained in the Circular dated 20.11.2013 issued by the State Police Chief. The 1<sup>st</sup> respondent Returning Officer shall ensure that there is no bogus voting or impersonation of voters, by having the identity of the voters verified with reference to the relevant records maintained in the Society, the identity card issued in Form 6A or and any one of the document specified in the Explanation to Rule 35A(6)(n)(ix) of the Kerala Co-operative Societies Rules, and also Form 6B register maintained in the Society.

If the petitioner makes a written request before the 1<sup>st</sup> respondent Returning Officer to videograph the process of election,

at her own expenses, the said request shall be favourably considered by the said respondent. Such videography shall be permitted without causing any manner of disturbance to the voters and officials or in any manner interfering with the balloting done in the polling booths.

Sd/-

**ANIL K. NARENDRAN  
JUDGE**

MIN

**APPENDIX**

**PETITIONER'S/S EXHIBITS:**

**EXHIBIT P1**

**TRUE COPY OF THE REPRESENTATION  
SUBMITTED BY THE PETITIONER DATED  
30.01.2021.**