

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

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

WP(C).No.8672 OF 2021(H)

PETITIONER/S:

TWENTY 20 PARTY
BUILDING NO.IV/172, IKKARNADU PANCHAYAT,
KADAYIRUPPU P. O., KUNNATHUNADU TALUK,
ERNAKULAM - 682311,
REPRESENTED BY ITS GENERAL SECRETARY,
AUGUSTINE ANTONY.

BY ADVS.
SRI.BLAZE K.JOSE
SHRI.JUDY JOSE
SMT.URMILA ZACHARIA

RESPONDENT/S:

- 1 THE ELECTION COMMISSION OF INDIA
NIRVACHANSADHAN, ASHOKA ROAD,
NEW DELHI - 110 001.
- 2 CHIEF ELECTORAL OFFICER,
KERALA ELECTION DEPARTMENT, KERALA LEGISLATURE,
'JANAHITHAM' ELECTION DEPARTMENT, TC 27/6(2),
VIKASBHAVAN P. O.,
THIRUVANANTHAPURAM - 695 033.
- 3 THE DISTRICT COLLECTOR, ERNAKULAM
(THE DISTRICT ELECTORAL OFFICER),
CIVIL STATION, KAKKANADU, ERNAKULAM - 682030.
- 4 THE RETURNING OFFICER (DIVISIONAL FOREST
OFFICER)
KOTHAMANGALAM ASSEMBLY CONSTITUENCY,
KOTHAMANGALAM - 686691.
- 5 THE RETURNING OFFICER (ASSISTANT DIRECTOR OF
PANCHAYATH)
THRIKKAKKARA ASSEMBLY CONSTITUENCY,
CIVIL STATION, KAKKANADU, ERNAKULAM - 682030.

6 THE RETURNING OFFICER (JOINT REGISTRAR,
CO-OPERATIVE SOCIETIES)
VYPEEN ASSEMBLY CONSTITUENCY, CIVIL STATION,
KAKKANADU, ERNAKULAM - 682030.

BY ADV. DEEPU LAL MOHAN, SC
BY ADV. KODOTH SREEDHARAN
BY ADV. K.V.SOHAN, STATE ATTORNEY

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

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Dated this the 31st day of March, 2021

The petitioner is a registered unrecognised political party under Section 29A of the Representation of the People Act, 1951. The petitioner is before this Court aggrieved by the conduct of the respondents by which the name, photograph and symbol of the candidates of Twenty 20 Party is not clear and visible on the electronic voting machine in Kothamangalam, Thrikkakkara and Vypin Assembly Constituencies to the election scheduled to be conducted on 06.04.2021 to the Kerala Legislative Assembly.

2. The petitioner would submit that every citizen has a valuable constitutional right to make a valid choice in the matter of election to the Legislative Assembly, after properly seeing and understanding the candidate, name and symbol.

3. It is the contention of the petitioner that the respondents have not treated all candidates with equal importance. The petitioner therefore prayed that there be a direction to the respondents to ensure that the name, photograph and symbol of the candidates of Twenty 20 Party are clear, prominent and as visible as all other candidates on the electronic voting machine to the election to the Kerala Legislative Assembly to be held on 06.04.2021 in the constituencies of Kothamangalam, Thrikkakkara and Vypin.

4. The learned Standing Counsel for the 1st respondent stated that all efforts have been made for conduct of free and fair election to all the Assembly Constituencies in Kerala and any interference of this Court at this stage would affect the free flow of electoral process. The Hon'ble Apex Court has time and again held that the High Courts shall not pass any orders in exercise of the powers under Article 226 of the Constitution of India which would cause obstruction to the free flow of electoral process.

5. The Standing Counsel for the 2nd respondent submitted that in Ext.P3 photograph of electronic voting machine, the photograph and symbol of the candidate belonging to the petitioner-Party are clearly visible. The sharpness of pictorial symbol may vary slightly depending upon the symbol. The petitioner has no reason to feel aggrieved.

6. I have heard the learned counsel for the petitioner, learned Standing Counsel for the 1st respondent, the learned Standing Counsel appearing for the 2nd respondent and learned State Attorney appearing for the 3rd respondent.

7. I have perused the pleadings in the writ petition. The election is scheduled to be held on 06.04.2021. Any direction that may be given to the respondents at this stage is likely to slow down the election process. The Ballot Papers for postal votes are already printed and postal votes are already polled. Materials including photographs, name and symbol of the candidates for EVM are also in place. Therefore, there is no question of giving any direction to the respondents to make

any substitution at this stage.

8. However, it is important and essential that citizens, who are to cast vote, are able to see the name, photograph and symbol of all candidates with sufficient clarity. This is essential for any free and fair election.

In the circumstances, the writ petition is disposed of directing the respondents to ensure that the name, photograph and symbol of the candidates belonging to the petitioner-Party are sufficiently clear so that voters can make an easy and informed choice.

Sd/-
N. NAGARESH, JUDGE

aks/31.03.2021

APPENDIX

PETITIONER'S/S EXHIBITS:

- EXHIBIT P1 A TRUE COPY OF THE ORDER
NO.56/SYMBOL/LET/ECI/PP/PPS-
II/2021/VOL-VIII DATED 16.03.2021 OF
THE ELECTION COMMISSIONER OF INDIA.
- EXHIBIT P2 A TRUE COPY OF THE CORRIGENDUM ORDER
NO.56/SYMBOL/LET/ECI/PP/PPS-
II/2021/VOL-III DATED 19.03.2021 OF
THE ELECTION COMMISSIONER OF INDIA.
- EXHIBIT P3 A TRUE PHOTOGRAPH OF THE SAMPLE
ELECTRONIC VOTING MACHINE OF
THRIKAKKARA CONSTITUENCY.
- EXHIBIT P4 A TRUE COPY OF THE COMPLAINT DATED
29.03.2021 SUBMITTED BY THE PETITIONER
TO THE 3RD RESPONDENT.