

(2008) 08 KL CK 0044

High Court Of Kerala

Case No: R.P. No"s. 808 and 809 of 2008 etc.

Kerala State Election
Commission

APPELLANT

Vs

Mercy George and Others

RESPONDENT

Date of Decision: Aug. 12, 2008

Acts Referred:

- Constitution of India, 1950 - Article 348(3)
- Kerala Panchayat Raj Act, 1994 - Section 3(3), 35(p)

Citation: (2008) 3 ILR (Ker) 720 : (2008) 3 KLJ 255 : (2008) 3 KLT 783

Hon'ble Judges: Antony Dominic, J

Bench: Single Bench

Advocate: Murali Purushothaman SC, KSE Comm, for the Appellant; K. Ramakumar (Sr.), K. Jagadeeschandran Nair, K. Jaju Babu and T.S. Shyam Prasanth, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Antony Dominic, J.

These Review Petitions have been filed by the Kerala State Election Commission, seeking review of the common judgment in W.P.(C) Nos. 37935 & 37968/07 in the case of [Varghese Yohannan Vs. The Kerala State Election Commission and Others](#), . Writ petitions were disposed of setting aside the orders passed by the review petitioner disqualifying the 1st respondent in these review petitions, who are the elected members of the Akalakunnam Grama Panchayat. Relying entirely on the English translated version of Section 3(3) of the Kerala Panchayat Raj Act, it was held that with the amendment by Act 31/05, the members of the Panchayat, did not have any obligation to convene meeting of the Grama Sabha at least once in three months. On this basis, it has further held that a member cannot be disqualified u/s 35(p) of the Act, on the allegation that the failed consecutively twice to convene

meetings of the Grama Sabha, due once in 3 months.

2. It is pointed out that Section 3(3) of the Act as it originally stood was amended by Act 13 of 1999, providing that the Grama Sabha shall meet at least once in 3 months. By the said Act, Section 35(p), providing for disqualification of a member if he fails twice consecutively to convene the meetings of the Grama Sabha, due once in 3 months was also incorporated. Subsequently, Section 3(3) was amended by Act 31/05 with effect from 24.8.2005. The Amendment Act which was passed in Malayalam received the assent of the Governor on 23.8.2005 and was published in Malayalam, in the Gazette of Kerala on 24.8.2005.

3. Section 3(3) as Amended and published in Malayalam reads as follows:

4. Thus the amended Act, passed by the legislature and published in the Gazette in Malayalam carried the obligation that the meetings of the Grama Sabha should be convened at least once in three months. However, in the English translation of the Act, which was published by the Government of Kerala in the Gazette, as required under Article 348(3) of the Constitution of India, Section 3(3) read as follows:

Grama Sabha shall meet at the place, date and time, fixed by the Convener of Grama Sabha in consultation with the president of the Village Panchayat and the Convener of the Grama Sabha shall intimate the details of the meeting to the Grama Sabha Members by a public notice and to such meetings, the Convener of Grama Sabha shall, compulsorily invite the member of the Block Panchayat, the District Panchayat and the Legislative Assembly representing the area of the Grama Sabha:

Provided that the Convener shall, on a request in writing made by not less than ten percent of the members of any Grama Sabha, convene a special meeting of the Grama Sabha within fifteen days with the agenda given along with the request:

Provided further that such special meeting shall be convened only once within the period between two general meetings.

5. A reading of the aforesaid section shows that the words "at least once in 3 months" is omitted to be included immediately after the words "Grama shall meet". Therefore the submission made is that this Court while disposing of the writ petitions committed an error in totally placing reliance on the erroneous English translated version of Section 3(3) of the Act and concluding that the writ petitioners did not have the obligation to convene meetings of the Grama Sabha at least once in three months.

6. The learned Senior Counsel Sri. K. Ramakumar, who argued on behalf of the 1st respondent in these review petitions, fairly concedes that in the Malayalam version there still exists the obligation to convene meetings of the Grama Sabha at least once in three months and that the said provision is absent in the Act as translated in English. However, relying on Article 348(3) of the Constitution of India, it was argued that when a legislation is passed in a language other than English, and the

translated version in English is published in the Gazette, the translated text in English language published in the Gazette shall be deemed to be the authoritative text of the legislation. In support of this contention counsel placed reliance on the decisions of this Court reported in [M. Thanga Dorai Vs. The Chancellor, University of Kerala, Trivandrum and Others,](#) , Thomas v. David (1999(1) KLT 208) and [Murali Purushothaman Vs. State of Kerala,](#) .

7. I have considered the submissions made by both sides. It is not in dispute that while disposing of the writ petitions, this Court placed total reliance on the Act as translated in English language and published in the Gazette. It is also not in dispute that the English translated version does not contain any obligation on the convener of the Grama Sabha to convene meetings at least once in three months, although this obligation is still there in the Act as passed by the legislature in Malayalam language and published in the Gazette on 24.8.2005. Therefore the question whether the convener has the obligation to convene meetings of the Grama Sabha as provided for in the Malayalam version of the Act is a matter which ought to have been considered while disposing of the writ petitions. But those aspect was not considered as the contradiction between the Malayalam and English versions of the Kerala Panchayat Raj Act was not brought to the notice of this Court at the time when the writ petitions were heard. The impact of Article 348(3) of the Constitution now relied on by the senior counsel for the writ petitioners is also a matter to be considered. Since these material aspects were not raised or considered at the time when the writ petitions were heard and disposed of, I am satisfied that the judgment deserves to be reviewed. Accordingly, the Review Petitions are allowed and the judgments in W.P.(C) Nos. 37935 & 37968/07 dated 15.7.2008 will stand recalled.

The writ petitions will be posted for hearing.