

(2012) 08 KL CK 0163

High Court Of Kerala

Case No: OP (C) . No. 1946 of 2012 (O)

A.S. Dinesan, President, Sree
Narayana Samskarika Samithi,
Sree Narayananapuram, Kakkanad,
Ernakulam -30

APPELLANT

Vs

V. Chandra Das, Former
President, Sree Narayana
Samskarika Samithi,
Karthikapally Taluk Committee,
Kayamkulam - 690502, P.P.
Balakrishnan, Former General
Secretary, Sree Narayana
Samskarika Samithi, State
Committee, Sree
Narayananapuram, Kakkanad,
Ernakulam - 682 030 and M.K.
Narayanan, Vadakkedth Veedu,
Kappil West, Krishnapuram. P.O.
Alappuzha - 690 533

RESPONDENT

Date of Decision: Aug. 1, 2012

Hon'ble Judges: V. Chitambaresh, J

Bench: Single Bench

Advocate: M. Sreekumar, for the Appellant; R. Sunil Kumar, Smt. A. Salini Lal, Sri. Thoufeek Ahamed and Sri. S. Sreekumar Sr. Advs. for R1, for the Respondent

Judgement

1. The challenge in this original petition is confined to para 13 of the judgment in CMA No. 49/08 on the file of the court of the Addl. District Judge-I of Mavelikkara. The lower appellate court directed fresh election to be conducted to the Karthikappally Taluk Committee of Sree Narayana Samskarika Samithy. The Trial Court was further directed to fix a programme for the conduct of election after publishing the list of electorate. The petitioner contends that such a direction was

wholly unwarranted since election had already been conducted to the Taluk Committee by the State Committee on 22.04.2012 and that too on the strength of an order for police protection by judgment dated 09.04.12 in WP(C) No. 8530/2012 on the file of this court.

2. The contesting respondents on the other hand pointed out that such an election could not have been conducted flouting the order to maintain status quo dated 19.12.2008 in CMA No. 49/2008 and that such an election even if conducted has no legal sanctity. The contesting respondents also assert that such an election is not permissible going by the terms of the judgment in O.S. No. 332/2008 on the file of the court of the Munsiff of Kayamkulam which has become final.

3. The petitioner in reply contends that the order of status quo dated 19.12.2008 has to be understood in the context of the reliefs sought in the application for injunction filed in the suit and would not certainly operate as a restraint to the conduct of election to the Taluk Committee on 22.04.2012. The petitioner further contends that only the supercession of the Taluk Committee elected to office in 2007 was called in question and that the term of the Committee would at any rate expire in the year 2009 and that the order of status quo has no relevance. The petitioner further adds that the election was conducted only after the judgment in O.S. No. 332/2008 and that the same was conducted strictly in accordance with the decree therein and also the bye-laws of the association.

4. The contesting respondents further assert that the decision impugned in the suit was to conduct an election on 19.10.2008 which however did not take place in view of the order of injunction passed therein. The President of the Taluk Committee therefore continues in office till date and that the order of status quo would cover the conduct of fresh election also to the Taluk Committee. The petitioners point out that the election was directed to be conducted before the expiry of term in 2009 and that it will not have any bearing in the election conducted on 27.04.2012.

5. All these are matters to be proved on the basis of the various documents produced by either parties. Trial Court will render a specific finding on these issues before deciding as to whether a fresh election has to be conducted or not to the Taluk Committee. Such a decision shall be taken within a period of one month from today. The court below will decide the further course of action dependent on the order to be passed as directed above. The impugned judgment in CMA No. 49/08 is modified accordingly. Original petition is disposed of. No costs.