

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE SATHISH NINAN

THURSDAY, THE 2ND DAY OF MARCH 2023 / 11TH PHALGUNA, 1944

WP(C) NO. 5858 OF 2023

PETITIONER:

DR. SHIBY M. THOMAS
S/O. THOMAS, AGED 51 YEARS, ASSOCIATE PROFESSOR, DEPARTMENT
OF ECONOMICS, ST. JOSEPH'S COLLEGE, DEVAGIRI,
KOZHIKODE - 673008, MEMBER, SENATE, UNIVERSITY OF CALICUT,
CALICUT UNIVERSITY P.O., THENJIPALAM,
MALAPPURAM DISTRICT - 673635.

BY ADVS.
NISHA GEORGE
GEORGE POONTHOTTAM (SR.)
A.L.NAVANEETH KRISHNAN

RESPONDENTS:

- 1 THE HON'BLE CHANCELLOR
UNIVERSITY OF CALICUT, KERALA RAJ BHAVAN, THIRUVANANTHAPURAM,
PIN - 695001
- 2 THE UNIVERSITY OF CALICUT
CALICUT UNIVERSITY P.O., THENJIPALAM,
MALAPPURAM DISTRICT -673635
REPRESENTED BY THE REGISTRAR.
- 3 THE VICE CHANCELLOR
THE UNIVERSITY OF CALICUT, CALICUT UNIVERSITY P.O.,
THENJIPALAM, MALAPPURAM DISTRICT -673635.

BY ADVS.
S.PRASANTH, SC, CHANCELLOR OF UNIVERSITIES
SHRI.P.C.SASIDHARAN, SC, CALICUT UNIVERSITY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
02.03.2023, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

SATHISH NINAN, J.

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W.P.(C) No.5858 of 2023

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Dated this the 2nd day of March, 2023

J U D G M E N T

The petitioner is a member of the Senate of the second respondent University. According to him, the Senate of the University was last constituted on 07.03.2019. Its term expires on 06.03.2023, the term being four years as per Section 18(1) of the Calicut University Act. In terms of Statute 4 of the Calicut University (Conduct of Election of Various Authorities or Bodies) First Statutes, 1975, the Vice Chancellor is responsible for the conduct of election. He has failed to take steps in time, for conduct of election and re-constitution of the Senate. On these allegations, the writ petition has been filed.

2. The reliefs sought in the writ petition reads thus:-

“i) Direct the Vice Chancellor of the University to take immediate steps for conducting election to various authorities

of the respondent University as mandated under Statute 4 and 5 of the Calicut University (conduct of Elections to Various Authorities or Bodies) First Statutes, 1975, pending disposal of the Writ Petition.

ii) Direct the 1st respondent to take steps as provided under Section 7(4)(b) of the Calicut University Act, 1975 with academicians of high order and acclamation in infusing confidence in the functioning of a University, pending disposal of the Writ Petition.”

3. Heard learned Senior Counsel Sri.George Poonthottam, on behalf of the petitioner, learned Senior Counsel Sri.Gopakumaran Nair, on behalf of the first respondent, and Sri.P.C.Sasidharan, learned Standing Counsel for the respondent University.

4. During the course of hearing Sri.P.C.Sasidharan, learned Standing Counsel for the University has handed over a notification dated 27.02.2023 issued by the University, notifying the dates for publication of electoral rolls for re-constitution of the Senate of the

University. Learned counsel further submitted that, steps for election having already been initiated, no orders are called for in this writ petition.

5. As per the University Statutes, the process of election has two stages; the publication of electoral roll in terms of Statute 13, followed by the notification of election in terms of Statute 34. In terms of Statute 13, the electoral roll is to be published not less than 30 days prior to the date of notification of election. It further provides that, the date of publication of electoral roll shall be notified in not less than 30 days prior to the date of publication of the electoral roll. The notification dated 27.02.2023 made available by the learned Standing Counsel for the University is one in terms of Statute 13. There under it is notified that, the electoral rolls will be published on the respective dates mentioned therein. It is after the process of finalisation of

electoral roll that elections are to be notified in terms of Statute 34. The entire process as above, require time.

6. In terms of Section 18(1) of the University Act, the Senate is to be re-constituted every four years. Statute 4 of the Calicut University (Conduct of Elections to Various Authorities or Bodies) First Statutes 1975, stipulates that the Vice Chancellor, is responsible for the conduct of elections. Therefore, he is to take necessary steps sufficiently early, for such re-constitution.

7. In the counter affidavit filed on behalf of respondents 2 and 3 it has been stated that, the Vice Chancellor had initiated steps as early as on 19.11.2022 for holding elections, by issuing necessary instructions to the Registrar. It is further averred that, on 21.11.2022, the Registrar had directed the Deputy Registrar (Election) to take steps for conduct of

elections. It is also sworn to that, on 01.02.2023 the Vice Chancellor accorded sanction to appoint the Registrar as the Returning Officer, and Assistant Registrar (II), Administration Branch as Assistant Returning Officer.

8. Noticeably, though the Vice Chancellor had issued instructions as early as on 19.11.2022 to initiate steps for conduct of elections to re-constitute the Senate, the notification in terms of Statute 13 with regard to publication of electoral roll has been issued only on 27.02.2023. When Section 18(1) of the Calicut University Act provides for re-constitution of the Senate every four years and the re-constitution is due, urgent steps ought to have been taken pursuant to the instructions of the Vice Chancellor. The counter affidavit does not indicate the reason for the delay that occurred after the order of the Vice Chancellor dated 19.11.2022.

9. Now that a notification with regard to publication of electoral roll in terms of Statute 13 has been issued, the further steps as contemplated under the Statute, for conduct of election needs to be expedited. In terms of Statute 13, after the publication of the electoral roll there has to be not less than 30 days before the election is notified under Statute 34. Having due consideration of the procedural formalities involved, it is ordered that, the elections shall be conducted, and the Senate re-constituted before 30th of June, 2023.

10. It is noticed that, though the Vice Chancellor had as early as on 19.11.2022 given necessary instructions for initiation of steps for re-constitution of the Senate, further steps pursuant thereto have been taken only in February, 2023. I am sure that the Vice Chancellor will enquire into the matter.

11. The second relief sought for in the writ petition is for a direction to the first respondent to take steps in terms of Section 7(4) (b) of the Calicut University Act. Section 7(4) reads thus:-

“(4) The Chancellor may, if he deems it necessary in the public interest or in the interest of the proper functioning of the University, suspend, dismiss or dissolve any authority of the University and -

(a) in the case of suspension, take measures for the interim administration of the University; and

(b) in the case of dismissal or dissolution, constitute such authority by nomination, for the interim administration of the University, till such authority is reconstituted in accordance with the provisions of this Act:

Provided that the nominated authority shall not in any case continue in office for a period exceeding one year.”

12. In terms of the Section, if the Chancellor deems it necessary in public interest or for the proper functioning of the University, he may suspend, dismiss or dissolve any authority of the University. In the case

of such dismissal or dissolution, the Chancellor can constitute such authority by nomination for interim administration, till such authority is reconstituted in accordance with the Act. As per the proviso, such nominated authority cannot continue beyond one year. What the petitioner seeks for is, constitution of an interim body by the Chancellor by nomination in terms of Section 7(4)(b) of the Act. That is within the domain of the Chancellor. A writ petition seeking such a relief is premature.

13. Arguments are addressed on both sides as to the manner in which the administration of the University is to be conducted when the term of four years of the Senate is to expire. It is an anticipated cause of action and does not call for adjudication at this stage. Hence the said relief sought, does not arise for consideration.

W.P.(C) No.5858 of 2023

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Accordingly, the writ petition is ordered with the directions as contained in paragraph No.9 above.

Sd/-
SATHISH NINAN
JUDGE

kns/-

//True Copy//

P.S. to Judge

APPENDIX OF WP(C) 5858/2023

PETITIONER EXHIBITS

EXHIBIT-P1 TRUE COPY OF THE ORDER CONSTITUTING THE
SENATE ON 7TH OF MARCH 2019 BEARING
NOTIFICATION NO. 204740/ELECTION-ASST-
1/2017/ADMN DATED 08.03.2019 ISSUED BY THE
RESPONDENT UNIVERSITY

EXHIBIT-P2 TRUE COPY OF THE ORDER CONSTITUTING THE
SYNDICATE ON 7TH OF JUNE 2019 BEARING
NOTIFICATION NO. 69659/ ELECTION-ASST-
3/2019/ADMN DATED 07.06.2019.
