

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

FRIDAY, THE 26<sup>TH</sup> DAY OF MAY 2023 / 5TH JYAISHTA, 1945

WP(C) NO. 15477 OF 2023

PETITIONERS:

- 1 S.JAYACHANDRAN  
AGED 53 YEARS  
SECRETARY,  
S.N.D.P. SAKHA NO.443,  
CLAPPANA SOUTH,  
KARUNAGAPPALLY,  
KOLLAM-, PIN - 690525
- 2 ANIL KUMAR  
AGED 52 YEARS  
SECRETARY,  
S.N.D.P. SAKHA NO.181,  
CLAPPANA NORTH,  
KARUNAGAPPALLY,  
KOLLAM, PIN - 690525
- 3 K.RAJAN  
AGED 72 YEARS  
SECRETARY,  
S.N.D.P. SAKHA NO.182  
CLAPPANA CENTRAL,  
KARUNAGAPPALLY,  
KOLLAM, PIN - 690525

BY ADVS.  
P.GOPALAKRISHNAN (MVA)  
A.N.RAJAN BABU

RESPONDENTS:

- 1 STATE OF KERALA  
REPRESENTED BY ITS SECRETARY,  
GOVERNMENT OF KERALA,  
GOVERNMENT SECRETARIAT,  
THIRUVARMTHAPURAM, PIN - 695001
- 2 THE ASSISTANT COMMISSIONER OF POLICE  
KARUNAGAPPALLY,  
KOLLAM, PIN - 690518

- 3 THE STATION HOUSE OFFICER  
OCHIRA POLICE STATION,  
OCHIRA P.O. KARUNAGAPPALLY,  
KOLLAM, PIN - 690526
- 4 K.SUSEELAN  
PRESIDENT,  
S.N.D.P. YOGAM KARUNAGAPPALLY UNION,  
KARUNAGAPPALLY RETURNING OFFICER,  
CLAPPANA SHANMUGHA VILASAM HIGHER SECONDARY  
SCHOOL (S.V.H S. S.) CLAPPANA,  
KARUNAGAPPALLY, KOLLAM, PIN - 690525
- 5 RENOJ R.  
MANAGER, S.V.H. S.S.,  
CLAPPANA, KANMAGAPPALLY,  
KOLLANTHARA, VARAVILA,  
CLAPPANA, KANMAGAPPALLY,  
KOLLAM, PIN - 690525

BY ADVS.  
KISHORE D  
MEERA GOPINATH(K/001803/1999.)  
R.MURALEEKRISHNAN (MALAKKARA) (K/000583/2008)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 26.05.2023, ALONG WITH WP(C).16639/2023, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

FRIDAY, THE 26<sup>TH</sup> DAY OF MAY 2023 / 5TH JYAISHTA, 1945

WP(C) NO. 16639 OF 2023

PETITIONER:

R.RAJENDRAN  
AGED 55 YEARS  
ADVOCATE,  
C.P. AND C.P.BUILDINGS T.D.ROAD,  
KOLLAM-13. (RETURNING OFFICER,  
CLAPPANA SHANMUGHAVILASAM HIGHER SECONDARY  
SCHOOL, ADMINISTRATIVE COMMITTEE ELECTION),  
CLAPPANA KOLLAM DISTRICT- 13., PIN - 691013

BY ADV P.V.JAYACHANDRAN

RESPONDENTS:

- 1 STATE OF KERALA  
REPRESENTED BY THE SECRETARY TO THE  
GOVT HOME DEPARTMENT SECRETARIAT,  
THIRUVANANTHAPURAM., PIN - 695001
- 2 THE DIRECTOR GENERAL OF POLICE  
OFFICE OF THE DIRECTOR GENERAL OF POLICE  
THIRUVANANTHAPURAM ., PIN - 695001
- 3 THE COMMISSIONER OF POLICE  
OFFICE OF THE COMMISSIONER OF POLICE KOLLAM  
DISTRICT, PIN - 691001
- 4 ASSISTANT COMMISSIONER OF POLICE  
KARUNAGAPPALLY KOLLAM DISTRICT, PIN - 690518
- 5 STATION HOUSE OFFICER  
OCHIRA POLICE STATION.  
OCHIRA., PIN - 690526
- 6 S.JAYACHANDRAN  
AGED 52 YEARS  
S/O. SREEDHARAPANICKER,  
ILLIKULATHU HOUSE,  
CLAPPANA VILLAGE,  
KARUNAGAPPALLY,  
KOLLAM DISTRICT ., PIN - 690518

- 7      S.SHIBU  
AGED 45 YEARS  
S/O. SADASIVAN KARIYIL MANNEL HOUSE,  
CLAPPANA VILLAGE,  
KARUNAGAPPALLY,  
KOLLAM DISTRICT ., PIN - 690518
- 8      ASHOKAN  
AGED 56 YEARS  
S/O. KUNJUMANI,  
PANANTHARAYIL HOUSE,  
CLAPPANA VILLAGE,  
KARUNAGAPPALLY,  
KOLLAM DISTRICT ., PIN - 690518
- 9      CHANDRA BOSE.D  
AGED 66 YEARS  
S/O. DAMODHARAPANICKER,  
KARICHALIL HOUSE,  
CLAPPANA VILLAGE,  
KARUNAGAPPALLY,  
KOLLAM DISTRICT, PIN - 690518
- 10     ANILKUMAR  
AGED 55 YEARS  
S/O. PRABHAKARAN,  
KANNEL HOUSE,  
CLAPPANA VILLAGE,  
KARUNAGAPPALLY,  
KOLLAM DISTRICT, PIN - 690518
- 11     SATHYAN  
AGED 59 YEARS  
S/O. KITTU,  
POURNAMI HOUSE,  
CLAPPANA VILLAGE,  
KARUNAGAPPALLY,  
KOLLAM DISTRICT ., PIN - 690518
- 12     RAKESHVENUNADHAN  
AGED 34 YEARS  
S/O. VENUNADHAN,  
RADHAKRISHNA BHAVAN,  
CLAPPANA VILLAGE,  
KARUNAGAPPALLY,  
KOLLAM DISTRICT, PIN - 690518

- 13      MONISHKUMAR  
         AGED 54 YEARS  
         S/O. KARUNAKARAN,  
         PUTHUVEETIL,  
         VARAVILAMURI,  
         CLAPPANA VILLAGE,  
         KARUNAGAPPALLY,  
         KOLLAM DISTRICT-, PIN - 690518
- 14      THE SHANMUGHVILASAM HIGHER SECONDARY SCHOOL  
         REPRESENTED BY ITS MANAGER  
         RENOJ R. CLAPPANA,  
         KOLLAM DISTRICT., PIN - 690525

BY ADVS.  
V.A MUHAMMED  
P.A.JENZIA(K/598/2003)

BY SMT.AMMINIKUTTY- SR.G.P

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 26.05.2023, ALONG WITH WP(C).15477/2023, THE  
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**N.NAGARESH, J.**

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**W.P.(C) Nos.15477 and 16639 of 2023**  
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**Dated this the 26<sup>th</sup> day of May, 2023**

The petitioners in W.P.(C) No.15477 of 2023, who are Secretaries of S.N.D.P Sakha Nos.443, 181 and 182 in Clappana, Karunagappally, are before this Court seeking the following reliefs:

(i) To issue a writ of mandamus or any other appropriate writ, order or direction, directing the Respondents 2 and 3 to provide adequate and effective police protection to petitioners and their men to conduct annual general body meeting and election of Managing Committee and Manager of Clappana Shanmugha Vilasam Higher Secondary School (S.V.H.S.S.), Clappana notified to be held on 14-05-2023.

ii) To issue an order directing Respondents 2 and 3 to provide adequate police protection to the petitioners and their men for their life and person.

(iii) To restrain by an order restraining Respondent No.5 his men or anybody on their behalf from interfering or obstructing the convening of annual general body meeting and election of Managing Committee and Manager of Clappana Shanmugha Vilasam Higher Secondary School in any manner.

iv) This Hon'ble Court may be pleased to dispense

with translation of Exhibits in vernacular language.

v) To grant such other relief deems fit and proper in the nature and circumstances of the case.

2. When this writ petition came up for admission on 12.05.2023, this Court passed an interim order as follows:

The learned counsel for the petitioners undertakes before this Court that the election will be conducted outside the school premises. The 3<sup>rd</sup> respondent is directed to maintain the law and order situation in the premises where the petitioners propose to conduct election other than the school mentioned in the writ petition. The petitioners shall intimate the place proposed to conduct the election, in advance to the 3<sup>rd</sup> respondent.

3. The petitioner in W.P.(C) No.16639 of 2023, is Returning Officer claiming to be appointed by the 14<sup>th</sup> respondent in the writ petition on the basis of a resolution that taken by the Executive Committee of Shanmugha Vilasam Higher Secondary School, Clappana. The petitioner-Returning Officer seeks the following reliefs:

a. Issue a Writ of Mandamus or other appropriate writ direction or order directing the 5<sup>th</sup> respondent to render adequate and effective protection for the smooth conduct of the election which is scheduled as per Exhibit-P4 notification, if any threat is posed by the respondents 6 to 13 or their henchmen to the life of the petitioner and to his election staff.

- b. Such other relief's that may deem fit and proper during the pending of the period.
- c. Dispense documents with filing of the translation of vernacular

4. In short, the dispute is regarding the competency of persons who can convened a meeting for election to the Managing Committee of Shanmugha Vilasam Higher Secondary School, Clappana.

5. The petitioners in W.P.(C) No.15477 of 2023 submit that they have convened a General Body Meeting for election to the Administrative Committee of the School on 14.05.2023. The election was conducted subsequent to the interim order passed by this Court on 12.05.2023. The Managing Committee is now in place. The 6<sup>th</sup> respondent in W.P.(C) No.16639 of 2023 has been elected and appointed as Manager.

6. The 5<sup>th</sup> respondent in W.P.(C) No.15477 of 2023 would submit that he is now in charge of Manager of the School, pursuant to an order passed by the DEO. As per Ext.R5(a) Bye-Laws, it is only the newly appointed Manager



who can convene General Body Meeting for the purpose of conducting election. Accordingly, the 5<sup>th</sup> respondent has appointed Adv.R.Rajendran as Returning Officer and Adv.S.Shibu Kumar as Assistant Returning Officer. The so called election conducted by the petitioners in W.P.(C) 15477 of 2023 is illegal and unsustainable in law.

7. The 5<sup>th</sup> respondent filed I.A. No.29 of 2023 in the Vacation Court (District Court, Kollam), which now stands transferred to Sub Court, Karunagappally. In the matter of election, the issue is now pending consideration before a competent Civil Court. As a competent Manager has convened a General Body Meeting for conducting the election legally as per Bye-Laws and since the said meeting is scheduled to be held on 18.06.2023, W.P.(C) No.15477 of 2023 is liable to be dismissed.

8. The petitioner in W.P.(C) No.16639 of 2023 contended that he is a Lawyer and has been newly appointed as Returning Officer for conducting election to the School in question. When the petitioner was taking steps to conduct the

election in a peaceful manner, certain persons have violated law, entered into his office premises and destroyed election records. The petitioner is facing serious threat from a rival fraction represented by respondents 6 to 13. Therefore, unless adequate and sufficient police protection is granted to the petitioner to conduct the election, the petitioner will be put to untold hardship.

9. The Government Pleader, on instructions, submitted that pursuant to the interim order of this Court in W.P.(C) No.15477 of 2023, the police officers took steps to maintain law and order. At present, there is no law and order problem. If any such instances are brought to the notice of the police authorities, they will be taken action in accordance with law.

10. I have heard the learned counsel for the petitioners, and the learned counsel appearing for the respondents.

11. From the pleadings and arguments, it is evident that the dispute relates to the competency of authorities under the Sakha Yogam / Manager of the School to conduct election

to the School Administrative Committee.

12. According to the petitioners in W.P.(C) No.15477 of 2023, a General Body Meeting was convened and a Managing Committee as well as a Manager has been newly elected. The 5<sup>th</sup> respondent in W.P.(C) No.15477 of 2023, who is the 14<sup>th</sup> respondent in W.P.(C) No.16639 of 2023, would question the legality of that election. He would submit that the election held on 14.05.2023 is nonest in the eye of law.

13. It is evident that the issue of conduct of election to the Administrative Committee of the school is subject matter of civil proceedings which now stands posted in the Sub Court, Karunagappally. Therefore, any final decision as regards the competency of the Manager or the petitioners in W.P.(C) No.15447 of 2023 for convening General Body Meeting for election and the validity of any election that has taken place will have to be decided by the Sub Court, Karunagappally. In the circumstances, it would be inappropriate for this Court to grant any police protection for conduct of election by either party.

14. However, I find that the petitioner in W.P.(C) No.16639 of 2023, who is a lawyer, is stated to be appointed as Returning Officer by the 5<sup>th</sup> respondent in W.P.(C) No.15477 of 2023 (14<sup>th</sup> respondent in W.P.(C) No.16639 of 2023). As the Returning Officer is facing serious threats to his person, the police authorities will have to protect the person of the petitioner in W.P.(C) No.16639 of 2023.

In the circumstances, these writ petitions are disposed of leaving the civil disputes involved in the election to be decided by the Sub Court, Karunagappally in the pending proceedings. Respondents 3 to 5 in W.P.(C) No.16639 of 2023 are directed to give police protection to the life of the petitioner in W.P.(C) No.16639 of 2023. Needless to say, the police authorities will keep vigil and ensure law and order issues, if any, arising in the matter of election to the Administrative Committee.

Sd/-  
**N. NAGARESH, JUDGE**

SSS

**APPENDIX OF WP(C) 15477/2023**

**PETITIONERS' EXHIBITS**

EXHIBIT P1	TRUE COPY OF THE RELEVANT PAGES OF APPROVED BYELAW OF THE CLAPPANA SHANMUGHA VILASAM HIGHER SECONDARY SCHOOL, CLAPPANA
EXHIBIT P2	TRUE COPY OF THE ORDER NO.B.4/525/2020 DATED 24- 02-2020 ISSUED BY D.E.O., KOLLAM
EXHIBIT P3	TRUE COPY OF THE ORDER NO.B/4/807087/2022/ K.DIS. DATED 17-04-2023 OF THE DISTRICT EDUCATIONAL OFFICER, KOLLAM
EXHIBIT P4	TRUE COPY OF THE LETTER DATED 10-3-2023 SUBMITTED BY 1 ST PETITIONER TO THE SECRETARY OF THE KARUNAGAPPALLY UNION
EXHIBIT P5	TRUE COPY OF THE LETTER DATED 20-3-2023 SUBMITTED BY 2ND PETITIONER TO THE SECRETARY OF THE KARUNAGAPPALLY UNION.
EXHIBIT P6	TRUE COPY OF THE LETTER DATED 28-3-2023 SUBMITTED BY 3RD PETITIONER TO THE SECRETARY OF THE KARUNAGAPPALLY UNION
EXHIBIT P7	TRUE COPY OF THE DECISION DATED 08-04-2023 OF THE S.N.D.P. YOGAM, KARUNAGAPPALLY UNION COUNCIL
EXHIBIT P8	TRUE COPY OF THE NOTICE OF ELECTION NOTIFICATION DATED 14-04-2023.
EXHIBIT P9	TRUE COPY OF THE NOTIFICATION PUBLISHED IN KERALA KAUMUDI DAILY DATED 14-4-2023
EXHIBIT P10	TRUE COPY OF THE FINAL LIST OF NOMINATION DATED 26- 04-2023
EXHIBIT P11	TRUE COPY OF THE PETITION DATED 20-04-2023 SUBMITTED BY PETITIONERS TO THE 2ND RESPONDENT
EXHIBIT P12	TRUE COPY OF THE PETITION DATED 27-04-2023 SUBMITTED BY PETITIONER TO THE 3RD RESPONDENT.

**RESPONDENT EXHIBITS**

<b>EXHIBIT R5 (A)</b>	<b>TRUE COPY OF THE APPROVED CONSTITUTION OF THE EDUCATIONAL AGENCY</b>
<b>EXHIBIT R5 (B)</b>	<b>TRUE COPY OF THE ORDER NO. B.4/525/2020/K.DIS DATED 24.2.2020 OF THE DISTRICT EDUCATIONAL OFFICER, KOLLAM</b>
<b>EXHIBIT R5 (C)</b>	<b>TRUE COPY OF THE ORDER NO. ET(1)/43956/2017/DPI/K.DIS. DATED 16.9.2017 ISSUED BY THE ADDITIONAL DIRECTOR (GENERAL) ATTACHED TO THE OFFICE OF THE DIRECTOR OF GENERAL EDUCATION</b>
<b>EXHIBIT R5 (D)</b>	<b>TRUE COPY OF THE JUDGMENT DATED 3.2.2023 IN W.P. (C) 3684/2023 OF THIS HONOURABLE COURT</b>
<b>EXHIBIT R5 (E)</b>	<b>TRUE COPY OF ORDER NO. B.4/807087/2022/K.DIS DATED 17.4.2023 OF THE DISTRICT EDUCATIONAL OFFICER, KOLLAM</b>
<b>EXHIBIT R5 (F)</b>	<b>TRUE COPY OF THE ANNUAL GENERAL BODY MEETING NOTICE DATED 14.4.2023 ISSUED BY THE SECRETARY, SNDP YOGAM, KARUNAGAPPALLY UNION, PUBLISHED IN THE KERALA KAUMUDI DAILY DATED 16.4.2023</b>
<b>EXHIBIT R5 (G)</b>	<b>TRUE COPY OF THE NOTICE DATED 13.4.2023 ISSUED BY THE SECRETARY, SNDP YOGAM, KARUNAGAPPALLY UNION TO THE 5TH RESPONDENT</b>
<b>EXHIBIT R5 (H)</b>	<b>TRUE COPY OF THE PUBLIC NOTICE DATED 5.5.2023 ISSUED BY THE 5TH RESPONDENT PUBLISHED IN THE MALAYALA MANORAMA DAILY DATED 7.5.2023</b>

APPENDIX OF WP(C) 16639/2023

**PETITIONER'S EXHIBITS**

<b>EXHIBIT P1</b>	TRUE COPY OF THE COMMUNICATION ISSUED BY THE MANAGER OF SHANMUGHAVILASAM HIGHER SECONDARY SCHOOL ON 05/05/2023 IS
<b>EXHIBIT P2</b>	TRUE COPY OF THE REPLY GIVEN BY THE PETITIONER TO THE MANAGER DATED 06/05/2023
<b>EXHIBIT P3</b>	TRUE COPY OF THE ELECTION RULES DATED 07/05/2023
<b>EXHIBIT P4</b>	TRUE COPY OF THE ELECTION NOTIFICATION MALAYALAMANORAMA DAILY DATED 07/05/2023
<b>EXHIBIT P5</b>	TRUE COPY OF THE MALAYALA MANORAMA DAILY ERRATUM DATED 09/05/2023 IS
<b>EXHIBIT P6</b>	TRUE COPY OF THE CONSTITUTION OF THE SHANMUGHAVILASAM HIGHER SECONDARY SCHOOL COMMITTEE APPROVED BY THE DEPARTMENT OF EDUCATION KERALA
<b>EXHIBIT P7</b>	TRUE COPY OF THE COMPLAINT FILED BY THE PETITIONER BEFORE THE STATION HOUSE OFFICER DATED 21/05/2023