

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE M.N.KRISHNAN**

**TUESDAY, THE 31ST JULY 2007 / 9TH SRAVANA 1929**

**WP(C).No. 23073 of 2007(V)**  
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**AGAINST THE ORDER IN IA.1102/2007 IN  
OS.1/2006 of I ADDL. DISTRICT COURT, KOLLAM**  
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**PETITIONERS:**  
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- 1. N.R.RAJENDRAN, S/O.RAGHAVAN,  
NADASSERIL HOUSE, THEKKU KOCHUMURI,  
OACHIRA.**
- 2. S.JAYAPRAKASH, S/O.SREEDHARAN,  
KALARIKKAL KADATHOOR, K.S.PURAM P.O.**
- 3. C.HARISANKAR, S/O.CHELLAPPAN PILLAI,  
PADANILATHU THEKKUKOCHUMURI, OACHIRA.**
- 4. PUSHPADASAN, S/O.RAGHAVAN, CHAITHANYA,  
CHERAVALLY, KAYAMKULAM.**
- 5. ASHOK KUMAR, S/O.NANU, CHATHAVANA,  
MADATHIL, KARAZHMA P.O.**

**BY ADV. SRI R.AZAD BABU**

**RESPONDENTS:**  
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- 1. OACHIRA PARABRAMA TEMPLE,  
REPRESENTED BY ITS SECRETARY.**
- 2. K.BHARGAVAN, S/O.KRISHNAN, SECRETARY,  
OACHIRA PARABRAMA TEMPLE, RESIDING AT  
MUTTATHU PRAYAR THEKKU ALUMPEEDIKA P.O.**
- 3. AARAMBIL SUKUMARAN UNNITHAN,  
S/O.NEELAKANTAN UNNITHAN, PRESIDENT,  
OACHIRA PARABRAMA TEMPLE RESIDING AT  
MANGALATHU VALLIKUNAM, VALLIKUNAM P.O.**

- 4. O.KRISHNA PILLAI, S/O.UMMINI PILLAI,  
VICE PRESIDENT, OACHIRA PARABRAMA TEMPLE,  
RESIDING AT KARIMUTTATHU, KATTACHIRA,  
PALLICHIRA P.O.**
- 5. V.SUNIL KUMAR, TREASURER, OACHIRA,  
PARABRAMA TEMPLE, RESIDING AT  
EDATHURUTHEL, ALAPPAD, CHERIYAZHEEKAL P.O.**
- 6. R.BHASKARA KURUP, EXECUTIVE COMMITTEE  
MEMBER OF DO. RESIDING AT PANAMPLAVIL  
THEKKU KOCHUMURI, OACHIRA P.O**
- 7. RAMACHANDRAN PILLAI, EXECUTIVE COMMITTEE  
MEMBER OF DO. DO.  
RESIDING AT MAVOORIL, VARAVILA, VARAVILA P.O.**
- 8. V.SADASIVAN, EXECUTIVE MEMBER OF DO.  
RESIDING AT KIDASSERIL PUTHEN VEEDU,  
PRAYAR NORTH P.O.**
- 9. S.MADHAVAN PILLAI, EXECUTIVE COMMITTEE  
MEMBER OF DO RESIDING AT MANEZHUTHU  
VAYANAKATHU NJAKKANAL P.O.**
- 10. DR.SIVARAMAKRISHNA PILLAI,  
MANAGING DIRECTOR, OACHIRA PARABRAMA  
SPECIALITY HOSPITAL AND RESEARCH CENTRE,  
OACHIRA.**
- 11. OACHIRA PARABRAMA SPECIALITY HOSPITAL,  
OACHIRA REPRESENTED BY ITS CHAIRMAN.**
- 12. VIJAYANATHA KURUP, THOTTATHIL VEEDU,  
FROM AYIKARAVATHIL, PAYIKUZH, Y,  
OACHIRA P.O., KOLLAM.**
- 13. DAMODARAN UNNITHAN,  
MALAYINKANDATHIL THEKKETHIL,  
VLAVAKKAD MURI, NOORANAD P.O.,  
MAVELIKKARA.**
- 14. R.SUSEELAN, AASANTAYYATHU, MADATHIL  
KARAZHMA P.O., OACHIRA, KOLLAM.**
- 15. K.R.AJIKUMAR, RAMA BHAVANAM, MADATHIL  
KARAZHMA P.O., OACHIRA, KOLLAM.**
- 16. A.SREEDHARAN PILLAI,  
S/O.ACHUTHA PANICKER, MEZHUVELIL HOUSE,  
KOTTAMPALLI, MADATHIL KARAZHAMA P.O.,  
OACHIRA.**

17. P.K.MURALEEDHARAN PILLAI, MALIECKAL  
PADEETTATHIL, PAYIKUZH, OACHIRA.
18. AMBUJAN, PUTHUMANGALATHU VEEDU,  
ALAPPAD VILLAGE, KARUNAGAPPALLY TALUK.
19. GOPALAKRISHNA PILLAI, ASAN PURAYIDATHIL,  
PAYIKUZH KARA, OACHIRA VILLAGE.
20. SIVADASAN, KUTTITHARAYIL,  
KRISHNAPURAM P.O., KRISHNAPURAM VILLAGE.
21. PRABHAKARAN, PUTHUKKADU VEEDU,  
PAYIKUZH KARA, OACHIRA VILLAGE.
22. AJAYAGHOSH, CHANNOOR VADAKKATHIL  
PRYAR THEKKUMKARA, CLAPPANA VILLAGE.
23. SIVAPRASAD, VISAKHAM, THEKKUKOCHU MURI  
KARA, OACHIRA P.O., KRISHNAPURAM.
24. MOHANAN, ANANDA BHAVAN, NEELIKULAM,  
K.S.PURAM VILLAGE, KARUNAGAPPALLY.
25. C.PRASANNAKUMARI, KOYIPPURATHU HOUSE,  
VADAKKUMMURI KIZHAKKU, THAZHAVA,  
KARUNAGAPPALLY.

R1 TO R6 & R8 TO R11 BY ADV. SRI.N.D.PREMACHANDRAN  
SRI.D.AJITHKUMAR  
R12 TO R17 BY SRI.K.P.SREEKUMAR  
SRI.P.M.SATHEESH  
SRI.R.GIREESH VARMA  
R24 & R25 SRI.T.GOPALAKRISHNAN  
R19 TO R22 SRI.P.N.RAVINDRAN  
SMT.PREETHY KARUNAKARAN  
SMT.M.M.DEEPA  
SRI.JAYKAR.K.S.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD  
ON 31/07/2007, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

**APPENDIX**

- EXT. P1      TRUE COPY OF THE PLAINT IN OS 1 OF 2006 FILED BEFORE  
THE DISTRICT COURT, KOLLAM.**
- EXT.P2      TRUE COPY OF THE ORDER IN IA 1371/06 IN THE COURT OF I  
ADDL. DISTRICT JUDGE, KOLLAM.**
- EXT.P3      TRUE COPY OF THE ORDER DTD.24.2.07 IN OS 1/06 OF THE  
DISTRICT COURT, KOLLAM.**
- EXT.P4      TRUE COPY OF THE JUDGMENT IN WPC 6407/07 DTD.10.4.07.**
- EXT.P5      TRUE COPY OF THE NOTICE PUBLISHED IN MALAYALA  
MANORAMA DAILY DTD.6.7.07.**
- EXT.P6      TRUE COPY OF THE APPLICATION IN IA 1102/07 OF THE  
DISTRICT COURT, KOLLAM.**
- EXT.P7      TRUE COPY OF THE NOTICE PUBLISHED IN MALAYALA  
MANORAMA DAILY DTD.21.7.07.**
- EXT.P8      TRUE COPY THE ORDER OF THE 1<sup>ST</sup> ADDL. DISTRICT COURT,  
KOLLAM.**

[ True copy ]

P.A. to Judge.

M.N. KRISHNAN, J.

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W.P.C. NO. 23073 OF 2007

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Dated this the 31<sup>st</sup> day of July, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside Ext.P8 order which imposes a condition that applicants should personally present themselves at the time of submitting applications for getting themselves enrolled as voters before the Returning Officers. The subject matter is regarding conduct of election to the famous Oachira Temple which is known by the name Oachira Parabrama Kshethra Bharana Samithi. The I Addl. District Judge, Kollam is hearing the matter and I find from Ext.P7 that there are members belonging to 52 places who are eligible and entitled to become the voters with respect to the Temple Committee and it is those voters who are to elect the persons.

2. A perusal of Ext.P7 notification which appeared in Malayala Manorama daily would show that the last date for receipt of application is 31.7.07 and the last date for scrutiny and identification of the applications is 4/8/07 and it

specifically insists that the member who has applied is to appear in person before the Returning Officers to prove his identity and get a duplicate of his application signed by the responsible Returning Officers. Then from Clause 3 onwards further process of conduct of the election is stated.

3. The grievance ventilated by the writ petitioner is to the effect that it may not be possible for all the persons who are applying for the membership to be included in the voters list be personally present for verification or submitting the applications directly to the Returning Officers. The learned counsel would submit that it can be collected by agents and can be handed over and there can be a scrutiny of the identity and thereafter the voters list be published.

4. On the other hand, the learned counsel for the respondents would submit that it is not a fair method because some people may produce large number of applications and there is every likelihood of incorporating bogus persons as members for the purpose of voting. The

Court has to arrive at a practical, feasible solution for this problem. There is some force in what both sides say.

5. When an election is to be conducted, the document which is having the maximum sanctity is the voters' list. If a voters' list is properly prepared in compliance with the rules and laws, then the democratic form of election will be very fair and it will really show the intention of the voters in the election correctly. Persons belonging to 52 places are to be enrolled. It may not be practically possible and feasible for each and every person to arrive and submit application in a place which is distant from their house. There may be old, disabled, sickly persons who may also like to get themselves enrolled as voters. So in order to have a reasonable approach I feel a direction can be given to the District Judge to consider the question why not the Returning Officers can visit few places wherein the inhabitants of that locality and the neighborhood be directed to be present with their applications and scrutiny be done to

the satisfaction of the persons in charge of the conduct of the election. If such a course is adopted there will be less difficulty caused to the inhabitants who wants to be enlisted as voters. There may be practical difficulty for locating the place. But, Returning Officers are the most eligible persons who can decide and say how things can be done in different places. Parties can also help the Court to fix the place taking into consideration the number of applications sold from a particular locality. Therefore, I am inclined to modify the order, Ext.P8, passed by the learned District Judge as follows and direct him to consider the matter afresh as shown below.

6. The learned District Judge shall bestow his attention and see in how many places the Returning Officers can be directed to go, hear and scrutinize the application forms. The District Judge can take into consideration the valuable suggestions of the Returning Officers as well as that of the parties in the suit to fix the places, if necessity arises. The learned District Judge may also extend the time



for receipt of applications as well as the time fixed for scrutiny, taking into consideration the time involved and the practical difficulties that will be experienced by the Returning Officers. The learned District Judge shall try to dispose of the matter as expeditiously as possible and if necessary give direction to the Returning Officers to have further advertisement.

The writ petition is disposed of accordingly.

**M.N. KRISHNAN, JUDGE.**

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