

THE HIGH COURT OF KERALA

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DI-3/ 9847/2021

Dated : 06.03.2021

OFFICIAL MEMORANDUM

Sub: Parties to Election Petition- Deletion of State Election Commission, District Election Officers & Returning Officers from the party array in Election Petitions-request by the State Election Commission - reg.



Ref: Letter No. B1/33870/2020/SEC dated 01/02/2021 from the Secretary, State Election commission.

The State Election Commission has, vide letter referred above, informed that the Election Commission or its Officers are not covered by Section 90 of the Kerala Panchayath Raj Act, 1994 and Section 166 of the Kerala Municipality Act, 1994 and hence it has been requested to delete the State Election Commission, District Election Officers & Returning Officers from the array of Election Petitions notified under Section 88(2) of the Kerala Panchayath Raj Act, 1994 and Section 164 of Kerala Municipality Act, 1994.

The Honourable Supreme Court in Jyoti Basu and others V Debi Ghosal and others ((1982) 1 SCC 691), B. Sundara Rami Reddy V. Election Commission of India and others (1991 Supp (20) SCC 624) and Michael B. Fernandes V. C.K. Jaffer Sharief and others ((2002)3 SCC 521) has observed that Election Commission may not be a necessary party to an election Petition. The High Court of Kerala has also observed in Chintha Dharmajan V. Mary Anto (2002 (2) KLT 478) that Returning officer is neither a necessary nor a proper party to an election petition

In the circumstances, the Judicial Officers in the District Judiciary are directed to see that when Election Petitions are filed, they are scrutinised before issuing notice and that the directions in the aforementioned judgments are complied with.

(By Order)


Vijayakumary P.
Joint Registrar


To

The District Judges (They shall bring the matter to the notice of the
Subordinate Officers under their control)

The Kerala Judicial Academy

Adv. G. Unnikrishnan, Secretary, Rule Committee, High Court of Kerala,
(GTWRA 1, 33/1947, 'Vigneswaram', Ganapathy Temple Road,
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