



2025:KER:48201

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE N.NAGARESH

THURSDAY, THE 3RD DAY OF JULY 2025 / 12TH ASHADHA, 1947

WP(C) NO. 21657 OF 2025

PETITIONER:

TRAINED NURSES' ASSOCIATION OF INDIA,
REGISTRATION NO.199, KERALA STATE BRANCH,
REPRESENTED BY PRESIDENT,
PROF. RENU SUSAN THOMAS, PRINCIPAL,
WELCARE COLLEGE OF NURSING,
MULANTHURUTHY, ERNAKULAM, PIN - 682314

BY ADVS.
SRI.ROMY CHACKO
SHRI.P.S.GEORGE
SRI.ROY CHACKO

RESPONDENTS:

- 1 THE RETURNING OFFICER
KERALA NURSES & MIDWIVES COUNCIL,
KNMC OFFICE,
RED CROSS ROAD,
THIRUVANANTHAPURAM, PIN - 695035
- 2 SHRI. M.V.SUDHEEP,
AGED 52 YEARS
TNAI 41753 MUDARAPILLY MANA,
NEDUPUZHA VILLAGE, NEDUPUZHA PO,
THIRISSUR DISTRICT, PIN - 680007



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- 3 MS. ANEESA S.A.
 AGED 42 YEARS
 SHANY MANZIL, AIKARAPADI PO, PULIKAL VIA,
 MALAPPURAM., PIN - 673637
- 4 MRS. PRASANNA V..NAIR
 AGED 36 YEARS
 VIJAYA NIVAS, KARAKKADU PO,
 CHENGANNUR, PIN - 689504

BY ADVS.
SHRI.VIVEK MENON
SRI.RAJIT
SRI.SAJU J PANICKER
SRI.V.C.MADHAVANKUTTY
SMT.SRUTHI RAJIT
SHRI.KURIAN K JOSE
SRI.JAMES P. THOMAS
SRI.N.RAGHURAJ (SR.)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 25.06.2025, THE COURT ON 03.07.2025
DELIVERED THE FOLLOWING:



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N. NAGARESH, J.

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Dated this the 3rd day of July, 2025

J U D G M E N T

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The petitioner is President of the Trained Nurses Association of India. The petitioner seeks to quash Exts.P1 and P5 to the extent respondents 2 to 4 have been shown as candidates contesting to the post of Member of the Kerala Nurses and Midwives Council from the quota reserved for Members of TNAI, Kerala State Branch.

2. The petitioner states that the 1st respondent-Returning Officer issued Ext.P1 notice of election on 20.01.2025 for the purpose of holding election for six posts



to be elected by the registered Nurses in Part A, one of whom shall be a member of the Trained Nurses Association of India. When Ext.P1 was issued, the TNAI sent Ext.P2 communication dated 25.01.2025 to the Returning Officer pointing out that as per the bye-laws of the TNAI, a member of TNAI who represents TNAI in Indian Nursing Council or State Nursing Council shall be decided/endorsed by the TNAI National or State Branch Executive Committee. If any TNAI member files nomination against the TNAI endorsed candidate, such candidate will be directed to withdraw his/her candidature.

3. By Ext.P4 communication dated 28.01.2025, the TNAI stated that the candidate approved by the State Branch of TNAI is Sri. Dileep M.K. for the post of Council Member and that no other candidate has been endorsed to represent TNAI in KNMC election. Despite Exts.P3 and P4, respondents 2 to 4 submitted nominations to the post of Council Member under the label of TNAI, which is evident



from Ext.P5 Notification dated 11.02.2025 of the 1st respondent-Returning Officer.

4. The President and Secretary of the State Branch sent letter dated 16.02.2025 to the Secretary General TNAI informing him about the action of respondents 2 to 4. The Executive Committee meeting held on 25.01.2025 had decided that any of the Executive Members or any other person endorsed by the State Executive Committee meeting can be suggested to the post of Member of the Kerala Nurses and Midwives Council. The decision was unanimously accepted by the Executive Committee which is evident from Ext.P8 minutes dated 28.01.2025. The TNAI issued Ext.P9 notice to respondents 2 to 4 intimating that if they do not withdraw their nominations on or before 11.02.2025, the Association will proceed against them.

5. Since respondents 2 to 4 did not pay any heed to Ext.P9, Ext.P10 show-cause notice dated 04.03.2025 was issued to them. Respondents 2 to 4 did not respond to



Ext.P10. The TNAI at the national level resolved to terminate the membership of respondents 2 to 4 as per Exts.P13 to P15 dated 09.05.2025. Consequent to their termination from the TNAI, they have incurred disqualification for being elected to the post of Council Member. The petitioner seeks to issue a declaration that the nomination submitted by respondents 2 to 4 and accepted by the 1st respondent are invalid and have no sanction in law.

6. The 1st respondent resisted the writ petition filing counter affidavit. The 1st respondent stated that draft voters list was published on 24.12.2024 and final voters list was published on 09.01.2024 after considering objections. Nominations submitted were scrutinised on 06.02.2025 in the presence of candidates and their representatives. Neither the petitioner nor their representatives present during the scrutiny did raise any objection to the candidature of respondents 2 to 4. After the date fixed for withdrawal of nominations, 32 candidates remained in the list.



7. Subsequent to publication of final list of candidates, the 1st respondent entrusted the printing of voting papers and other connected papers with the C-Apt, Thiruvananthapuram. Printing and packing of voting papers for 400380 Nurses and 19750 Auxiliary Nurse Midwives were completed by C-Apt and handed over to Speed Post authorities on 24.05.2025. The Speed Post has sent all 420130 voting papers by 30.05.2025. The 1st respondent started receiving the votes casts in the ballot papers from 15.04.2025 onwards, well before filing this writ petition. A total number of 4930 votes have been received in the office up to 19.06.2025. Considering the fact that almost 90% of the election process have already been completed and since none of the grounds put forth by the petitioner is sustainable, the petitioner is not entitled to any relief, urged the 1st respondent.

8. The 3rd respondent filed counter affidavit. The 3rd respondent stated that she satisfies all the conditions laid



down in Ext.P1 and she is qualified to contest the election. No clause in the bye-law of TNAI prohibits a member from the TNAI to contest in the reserved seat of TNAI in the Nursing Council elections. If there is any prohibition or violation, that is an internal matter within the TNAI. It will not affect the candidature of the 3rd respondent for election to the KNMC. The petitioner satisfied the eligibility conditions for filing nomination as stipulated in Ext.P1.

9. The termination of the membership of the 3rd respondent as per Ext.P14 is illegal. She was not given any notice nor was she heard before the decision was taken. The expulsion of the 3rd respondent cannot retrospectively invalidate nominations already accepted. The writ petition is therefore liable to be dismissed outright.

10. I have heard the learned counsel for the petitioner, the learned counsel appearing for respondents 1 and 5 and the respective learned counsel appearing for respondents 2 and 3.



11. The contention of the petitioner is that as per Section 3(2)(d) of the Kerala Nurses and Midwives Act, 1952, the eligibility condition for contesting election is that a candidate must be a member of TNAI at the time of election. Respondents 2 to 4 ceased to be members of TNAI and therefore they are ineligible. The Hon'ble Apex Court has held in the judgment in ***N.P. Ponnuswami v. Returning Officer*** [(1952) 1 SCC 94] that "election" means the entire process of election starting from the publication of Notification ending with declaration of result. Therefore, eligibility of candidates contesting in the election should be valid till the declaration of results.

12. Section 3 of the Nurses and Midwives Act, 1953 provides for establishment, incorporation and constitution of the Kerala Nurses and Midwives Council. Section 3 reads as follows:

3. Establishment, incorporation and constitution of the Council-

(1) The Government shall, by notification in the Gazette, establish a Council to be called the Kerala



Nurses and midwives Council for the purpose of carrying out the provisions of this Act. Such Council shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

(2) The Council shall consist of the following members namely:-

(a) The Director of Health Services, the Professor of Gynaecology, Medical College, Thiruvananthapuram, the Professor of Gynaecology, Medical College, Kozhikode, the Professor of Gynaecology, Medical College, Kottayam, the Assistant Director of Health Services (Maternity and Child Health), the Superintendent, Women and Childrens' Hospital, Trivandrum and the Superintendent, Women and Childrens' Hospital, Kozhikode, to be ex-officio members;

(b) one member elected by the members of the Medical Council from among themselves;

(c) three registered nurses nominated by the Government, two of whom shall be Superintendents of Nursing Schools and the third shall be the Matron-Superintendent of a Major Hospital;

(d) Six members elected by the registered nurses from among the nurses registered in Part A of the register of nurses, of whom at least one shall be a member of the Trained Nurses Association of India registered in the State of Kerala, one a member of the Kerala Government Nurses Association and one a nurse working in a private hospital in the state;

(e) three members elected by the Registered Midwives, of whom one shall be from among the midwives registered in Part A of the register of midwives and two from among the auxiliary nurse-midwives registered under this Act;

(f) one member elected by the registered health visitors from among the health visitors registered in the register of health visitors.



13. As per Section 3(2)(d), six members elected by the registered Nurses from among the Nurses registered in Part A of the register of Nurses of whom at least one shall be a member of the Trained Nurses Association of India registered in the State of Kerala and one member of the Kerala Government Nurses Association and one a Nurse working in a private hospital in the State. Respondents 2 to 4 have submitted nomination for contesting against one seat reserved for members of the Trained Nurses Association of India.

14. The only requirement for contesting against the one post of member earmarked for the members of the TNAI is that the candidate shall be a member of the TNAI. Section 3 does not envisage that a member filing nomination against the said vacancy should be a person selected or endorsed by the TNAI.

15. The contention of the petitioner is that respondents 2 to 4 are not eligible to contest in the elections



due to the termination of their membership in the TNAI.

Section 6 of the Act, 1953 provides for disqualification of membership. Section 6 reads as follows:

6. Disqualifications for membership-

A person shall be disqualified for being elected or nominated as, and for being a member of the Council-

- (a) if he has not attained the age of majority;
- (aa) If he is not a resident of the State of Kerala
- (b) if he is an undischarged insolvent;
- (c) if he is of unsound mind and stands so declared by a competent court, a deaf-mute or a leper;
- (d) if he has been dismissed from service under any Government;
- (e) if his name has been removed from the registers maintained under this Act or the Travancore-Cochin Medical Practitioners Act, 1953, and has not been reinstated.

As far as respondents 2 to 4 are concerned, the petitioner has no case that respondents 2 to 4 have incurred any of the disqualification as provided in Section 6.

16. The counsel for the petitioner attempted to make a distinction between the eligibility to contest in elections and disqualification of membership in the Kerala Nurses and Midwives Council. It is true that eligibility to contest in



election to the Council is distinct from disqualification of membership in the Council. The question of disqualification of membership in the Council would arise only after a candidate is elected to the Council, whereas eligibility to contest in election should be satisfied before a candidate becomes member of the Council.

17. The question then arising is about the point of time when a candidate should satisfy the eligibility conditions for contesting in elections. The eligibility condition with which we are concerned in this writ petition is the membership in TNAI. Admittedly, respondents 2 to 4 were valid members of the TNAI when Ext.P1 election notification was published on 20.01.2025, when the nomination papers were received on 31.01.2025, on scrutiny of nomination paper held on 06.02.2025 and on the prescribed date for withdrawal of nomination paper, namely 11.02.2025. The Returning Officer has published the name of valid candidates as per Ext.P5 gazette notification dated



15.02.2025.

18. The argument of the petitioner is that since the membership of respondents 2 to 4 which is an eligibility condition for contesting in the election, has been terminated subsequently as per resolution dated 12/13.4.2025, respondents 2 to 4 should be treated as ineligible. Such an interpretation cannot be accepted for the reason that the eligibility conditions need to be satisfied only at the time of filing of nominations or at the most, as on the date of scrutiny of nomination. If persons can be disqualified for contesting in election after the declaration of valid candidates by the Returning Officer, there will be no certainty in the conduct of election on the declared date of election.

19. In elections where eligibility is determined on the basis of membership in other organisations, such organisations will be able to thwart or unsettle any election by terminating the membership of a candidate even after declaration of the list of candidates. One cannot presume



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that the law making authorities wanted such a volatile or fluid situation during the process of election. The argument of the petitioner in that regard is therefore only to be rejected. Once the Returning Officer scrutinises the nomination papers and publishes the list of candidates, those candidates cannot be declared as ineligible otherwise than by due process of law.

20. It is also to be noted that Section 6 which lays down the disqualification of membership in the Council does not make resignation from or termination of the membership in the present organisation as a reason for disqualification. Section 6 would clearly indicate that continued membership in TNAI is not a condition for remaining as a member of the Council in the seat reserved for TNAI members.

The writ petition is therefore without any merit and it is hence dismissed.

Sd/-
N. NAGARESH, JUDGE

aks/02.07.2025



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APPENDIX OF WP(C) 21657/2025

PETITIONER'S EXHIBITS

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| Exhibit P1 | TRUE COPY OF THE NOTICE OF ELECTION DATED 20.01.2025, ISSUED BY THE 1ST RESPONDENT. |
| Exhibit P2 | TRUE COPY OF THE COMMUNICATION ADDRESSED BY THE NATIONAL COUNCIL OF TNAI DATED 25.01.2025 TO THE RETURNING OFFICE. |
| Exhibit P3 | TRUE COPY OF THE PUBLIC NOTICE ISSUED BY THE PRESIDENT AND THE SECRETARY OF THE STATE BRANCH OF TNAI DATED 25.01.2025. |
| Exhibit P4 | TRUE COPY OF THE COMMUNICATION DATED 28.01.2025 ADDRESSED TO THE 1ST RESPONDENT. |
| Exhibit P5 | TRUE COPY OF THE NOTIFICATION DATED 11.02.2025 ISSUED BY THE 1ST RESPONDENT. |
| Exhibit P6 | TRUE COPY OF THE COMMUNICATION ADDRESSED TO THE SECRETARY GENERAL, TNAI AT THE NATIONAL LEVEL DATED 16.02.2025 |
| Exhibit P7 | TRUE COPY OF THE MINUTES OF THE MEETING HELD ON 25.01.2025. |
| Exhibit P8 | TRUE COPY OF THE MINUTES PREPARED AT THE EXECUTIVE COMMITTEE MEETING HELD ON 28.01.2025. |
| Exhibit P9 | A TRUE COPY OF ONE SUCH LETTER ADDRESSED TO THE 4TH RESPONDENT (PRASANNA V. NAIR) . |
| Exhibit P10 | TRUE COPY OF REFERENCE, THE SHOW CAUSE NOTICE ISSUED TO THE 2ND RESPONDENT (SHRI SUDEEP M.V.) DATED 04.03.2025. |
| Exhibit P11 | TRUE COPY OF THE COMMUNICATION DATED 08.05.2025 ADDRESSED TO THE SECRETARY GENERAL TNAI AT NATIONAL LEVEL, WITH A COPY MARKED TO THE NATIONAL PRESIDENT. |



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Exhibit P12	TRUE COPY OF THE RELEVANT PAGES OF THE BYELAWS UNDER THE CAPTION SECTION-E (DISCIPLINARY.ACTION) CLAUSE I (I) TO (V)
Exhibit P13	TRUE COPIES OF THE COMMUNICATION DATED 09.05.2025 ADDRESSED TO RESPONDENT 2.
Exhibit P14	TRUE COPIES OF THE COMMUNICATION DATED 09.05.2025 ADDRESSED TO RESPONDENT 3.
Exhibit P15	TRUE COPIES OF THE COMMUNICATION DATED 09.05.2025 ADDRESSED TO RESPONDENT 4
Exhibit P16	TRUE COPY OF THE RELEVANT EXTRACT (AS ON 20.1.1971)
Exhibit P17	TRUE COPY OF THE RELEVANT EXTRACT OF THE PROVISION CONTAINED SEC 6 OF THE KERALA NURSES & MIDWIVES ACT .
Exhibit P18	TRUE COPY OF THE COMMUNICATION DATED 10.5.2025.