



REAL ESTATE

Kerala High Court Restores Fair Play in Co-operative Elections: No 'Implied' Disqualifications Allowed

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PUBLISHED 6 October 2025

Legal Background

Elections to co-operative societies in India are governed by state-specific laws, since co-operatives fall within the entry 32 of the State List under the 7th Schedule of the Constitution of India. Each state enacts its own statute and rules for the registration, management, and election of co-operative societies.

In Kerala, the governing framework is the Kerala Co-operative Societies Act, 1969 and the Kerala Co-operative Societies Rules, 1969. These laws regulate the procedure for electing members to the committees of primary, circle, and apex co-operative unions within the state. Specifically, Rule 129 of the Kerala Co-operative Societies Rules lays down the requirements for filing and scrutinising nominations for elections to Circle Co-operative Unions.

Judicial interference in the election process is generally limited. The Supreme Court in *N.P. Ponnuswami v. Returning Officer*^[1] and *Mohinder Singh Gill v. CEC*^[2] held that once the election process begins, challenges must ordinarily be raised through post-election remedies like election petitions. However, later rulings, particularly *Election Commission v. Ashok Kumar*^[3], recognised exceptions where courts may intervene to prevent patent illegality or to smoothen the progress of the election without derailing the schedule.

Kerala High Court precedents, including *Mercy George v. Kerala State Co-operative Election Commission* (2017, 2018) and *Jaya Varma K. v. State Co-operative Election Commission* (2017), have affirmed that intervention is permissible when rejection of nominations is clearly illegal or arbitrary.

The Case: R. Suresh Babu v. State Co-operative Election Commission

In *R. Suresh Babu v. State Co-operative Election Commission*^[4], the petitioner, a member of the APCOS Employees Co-operative Society Ltd., filed a nomination to contest elections to the Neyyattinkara Circle Co-operative Union. His proposer, M. Satheeshkumar, also submitted his own nomination for the same constituency, with the petitioner as his proposer.

The Returning Officer rejected both nominations on the ground that a proposer could not also be a candidate in the same constituency. No written reason was given in the published list, though the petitioner was orally informed of this rationale. The rejection left another candidate (impleaded as additional respondent) as the sole contender for the seat.

The petitioner approached the High Court, contending that the rejection was without legal basis. The respondents defended the decision as necessary to preserve the integrity of the election, and further argued that the petitioner's remedy lay in an election petition under Section 69(3) of the Act.

Judicial Reasoning

Justice K. Babu rejected the Returning Officer's reasoning as unsustainable. The Court closely examined Rule 129(4) and observed that it contains no prohibition preventing a proposer from also being a candidate. Nor does it disqualify a candidate who has proposed another's nomination. Since the right to contest is a statutory right, it can only be restricted on grounds expressly provided by the statute. Introducing an unwritten restriction would amount to enlarging the scope of disqualification beyond the legislative scheme.

The Court further distinguished between cases where judicial interference disrupts elections and cases where intervention is needed to correct a manifest illegality. Relying on *Ashok Kumar* and Kerala precedents, the Court held that where rejection of a nomination is patently illegal, and no detailed evidence is required, the High Court can intervene under Article 226 without violating the principle of non-interference in ongoing elections.

The Returning Officer's decision, in this case, was an unwarranted assumption of power, not merely an error of judgment. By disqualifying the petitioner on an extraneous ground, the officer effectively denied him his statutory right to contest. The Court therefore directed that the petitioner's nomination be accepted.

Significance

This judgment carries important implications for electoral fairness within co-operative institutions:

- **Reinforcing Statutory Boundaries:** The ruling reiterates that Returning Officers cannot create disqualifications by implication. Since the election process under the Co-operative Societies Act is statutory in nature, the grounds for rejection or disqualification must be expressly stated in the Act or Rules. Any attempt to add to them undermines members' statutory rights and distorts the democratic functioning of co-operatives.
- **Clarifying the Scope of Judicial Review:** While courts ordinarily avoid interfering mid-election, the judgment clarifies that limited intervention is permissible where illegality is apparent on the face of record and no disputed facts are involved. This ensures procedural fairness without disrupting the electoral timeline, maintaining the delicate balance between electoral autonomy and judicial oversight.
- **Strengthening Democratic Integrity in Co-operatives:** By holding that a Returning Officer cannot import unwritten restrictions, the Court has affirmed the primacy of statutory text and democratic rights of members. This decision will likely guide election officers and co-operative commissions in other states facing similar procedural questions.

Conclusion

The Kerala High Court's decision in *R. Suresh Babu v. State Co-operative Election Commission* sends a clear message, i.e., election officials must stay within the limits of the law. The Court reminded that no one can be stopped from contesting an election unless the law itself expressly says so; officials cannot add their own rules or restrictions.

At the same time, the Court struck a balance between respecting the election process and correcting clear wrongdoing. It explained that while courts usually avoid interfering mid-election, they can step in when the violation is obvious and unfair. This ruling strengthens the fairness and transparency of co-operative elections in Kerala, ensuring that democratic rights are protected through a careful and lawful approach.

For more details, write to us at: contact@indialaw.in

[1] AIR 1952 SC 64

[2] AIR 1978 SC 851

[3] (2000) 8 SCC 216

[4] Kerala HC, W.P.(C) No. 33733 of 2025, decided on 16 September 2025

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