

SUPREME COURT OF INDIA

T.D.Byju

Vs.

Thiruvanchoor Radhakrishnan

(2008) 2 SCALE 0001

(Ashok K.Mathur and B.Sudershan Reddy,JJ.)

23.01.2008

JUDGEMENT

1. Heard Learned Counsel For The Parties.

2. This appeal is directed against the judgment and order dated 19.12.2006 passed by a learned Single Judge of the High Court of Kerala whereby the learned Single Judge has dismissed the election petition filed by the appellant-a voter against the elected candidate Thiruvanchoor Radhakrishnan. The election to the Adoor Legislative Assembly Constituency No. 119 to the Kerala Legislative Assembly was held on 11.5.2006 and the respondent herein won the election by a margin of 18, 406 votes over his next rival D.K. John. The appellant who is a voter of the said Constituency challenged the election of the returned candidate on the ground that the indirect allegations of corruption leveled against D.K. John, the defeated candidate, were not correct and that mislead voters. Therefore, the appellant filed an election petition before the High Court. The election petition was dismissed in limine on account of the fact that the averments made in the election petition by the appellant were not true to his knowledge and therefore, the Court found that the petition is vague and the affidavit supporting the election petition did not disclose the source of information. Aggrieved against the order of dismissal of the election petition by the High Court, the appellant is before us by way of appeal.

3. WE have heard learned counsel for the parties and gone through the impugned judgment. Learned counsel for the appellant has submitted that the view taken by the learned Single Judge is not correct. The allegations made in the petition are sufficiently supported by the affidavit and they are not vague. In support of the contention learned counsel invited our attention to decision of this Court in the case of *F.A. Sapa and Others v. Singora and Others reported as¹*. ;

Judgment Referred.

1(1991) 3 SCC 0375