

Dr.C.Thangaraj Vs. State of Kerala

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Court : Kerala

Decided On : Feb-19-2015

Judge : Honourable Mr.Justice P.R.Ramachandra Menon

Appellant : Dr.C.Thangaraj

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE THURSDAY, THE 19TH DAY OF FEBRUARY 2015 30TH MAGHA, 1936 WP(C).No. 24214 of 2013 (B) ----- PETITIONER : ----- DR.C.THANGARAJ, 25/71, P.S.K.NAGAR, RAJAPALAYAM, VIRUDHU NAGAR DISTRICT, TAMIL NADU- 626 117. BY ADVS.SRI.ELVIN PETER P.J.

SRI.T.G.SUNIL (PRANAVAM) SRI.K.R.GANESH RESPONDENTS :
----- 1. STATE OF KERALA REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2. STATE OF KERALA REPRESENTED BY ITS PRINCIPAL SECRETARY, SCIENCE AND TECHNOLOGY AND ENVIRONMENT DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM-695 001.

3. THE CENTRE FOR WATER RESOURCES DEVELOPMENT AND MANAGEMENT KUNNAMANGALAM, KOZHIKODE-673 571.

4. THE KERALA STATE COUNCIL FOR SCIENCE AND TECHNOLOGY AND ENVIRONMENT, REPRESENTED BY ITS EXECUTIVE VICE PRESIDENT SASHTRA BHAVAN, PATTOM P.O., THIRUVANANTHAPURAM-695 004. R1 TO R3 BY GOVERNMENT PLEADER SMT. REKHA VASUDEVAN R4 BY ADV. SRI.GEORGE ZACHARIAH,SC,KSCSTE THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 19.02.2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: bp WP(C).No. 24214 of 2013 (B)
----- APPENDIX PETITIONER(S)' EXHIBITS
----- P1 : COPY OF THE NOTIFICATION DTD.1.12.2011 PUBLISHED BY THE 4th RESPONDENT IN THE WEB SITE. P2 : COPY OF NEWS ITEM APPEARED IN THE INDIAN EXPRESS DAILY DTD.30.11.2012. P3 : COPY OF REPRESENTATION DTD.31.12.2012 SUBMITTED BY THE PETITIONER BEFORE THE 4th RESPONDENT. P4: COPY OF

ORDER

DT242/2014 ISSUED BY R2. P5: COPY OF THE NOTIFICATION PUBLISHED BY THE R4. RESPONDENT(S)' EXHIBITS : ----- EXT.R4(a): COPY OF THE GENERAL RULES FOR APPOINTMENT OF DIRECTORS OF R & D INSTITUTIONS OF KSCSTE, ALONG WITH THE MODE OF SELECTION AND QUALIFICATIONS. //TRUE COPY// P.A. TO JUDGE bp A.MUHAMED MUSTAQUE, J.

===== W.P(C).No.24214 of 2013
===== Dated this the 19th day of February, 2015

JUDGMENT

The Centre for Water Resources Development and Management, CWRDM is one of the research and development institution established by the Kerala State Council for Science, Technology and Environment constituted by the Government as an autonomous body under the Government of Kerala. For appointment to the post of Executive Director of the CWRDM, a notification was issued on 01.12.2011. It appears that there were 11 candidates responded to the notification

and 4 candidates were shortlisted by Search-cum-Selection Committee. Thereafter, Search-cum-Selection Committee interviewed three candidates. Though 4 candidates were found eligible for interview, only 3 candidates turned up. Search-cum-Selection Committee found that petitioner is best suited to be appointed as Executive Director. Petitioner approached this Court on account of delay in issuing order of approval as Executive Director.

2. Pending Writ Petition the second respondent, pursuant to the interim order passed by this Court, passed an order dated 24.02.2014 in the matter of appointment of Director. W.P(C).No.24214 of 2013 2 This order is produced as Ext.P4. Ext.P4 order is under challenge in this Writ Petition after an amendment to the Writ Petition.

3. By Ext.P4 order, Government decided to cancel the selection conducted pursuant to Ext.P1 for appointment to the post of Executive Director and re-notify the selection process. It is stated in Ext.P4 itself that the persons selected by the duly appointed selection committee was about to be served with the appointment order. However, there was a representation to re-notify the selection process and based on the above representation, Government decided to cancel the earlier appointment/selection and conduct a fresh selection.

4. In the counter filed on behalf of the second respondent, it is admitted that duly selection committee interviewed candidates and recommended petitioner for appointment as Executive Director. It is further stated as follows: "However based on an oral representation by the office bearers of one of the Scientist Organizations in CWRDM before the KSCSTE, Government decided, in principle, to cancel the selection procedure and conduct a fresh selection. This matter has been informed to the petitioner. W.P(C).No.24214 of 2013 3 Further action in this direction was not taken due to the pendency of this Writ Petition before this Honourable Court".

5. In counter statement filed on behalf of the 4th respondent, it is stated that Search-cum-Selection Committee could not prepare a panel of more than three candidates as stipulated in the Rules so as to finalise the appointment procedure. It is further stated that there was representation from the KSCSTE and

Government has decided in principle to cancel the selection procedure, and to initiate fresh selection process.

6. In sum and substance, in the counter, the case is that based on the representation by such organization or others, Government has decided to cancel the selection process. In normal circumstances, cancellation of selection process would arise only when there exists any vitiating circumstances in the selection process. Nowhere, it is seen from the records an element of explanation or reasons for cancellation except a reference to a representation made by the Association. On the other hand, this Court directed the second respondent to provide details of number of applicants and number of eligible candidates interviewed, details of W.P(C).No.24214 of 2013 4 candidates two and three who were interviewed and also committee proceedings relating to the selection. Pursuant to the above direction, an additional affidavit has been filed by the second respondent on 30.01.2015. In the additional affidavit, details of the candidates who applied for the post and also details of the screening committee have been mentioned. It is reiterated in the affidavit that committee found that petitioner is the suitable and best fitted candidate for the post.

7. The post of Executive Director is a responsible post to be discharged by experienced persons. If there are any reason which make candidates unfit for the post, necessarily that must be transpired to justify the action nullifying the selection process. However, in this case in spite of many directions, the explanation arrived by the Government in cancelling the selection process is not borne out on record. The contention of the 4th respondent is that the requirement of atleast three candidates as per the procedure for selection and appointment of Executive Director are unsustainable. The Selection Process Rules only contemplates that Search-cum- Selection Committee shall prepare a panel of not more than three candidates which shall be forwarded to the President by W.P(C).No.24214 of 2013 5 the Executive Vice President. That does not mean, there should be three candidates for consideration by the President for appointment. The only requirement is that the panel prepared by the Committee shall not exceed more than three candidates. The process of such selection committee is to find out best suitable candidates. Having found that petitioner is the best suitable candidate,

petitioner's name has to be forwarded to the post. Of course, President is free to dissent with the findings of the Committee for any reason legally sustainable. However, based on mere representation by any Organization or third party, the selection process cannot be unsettled. In view of the fact that no cogent reason has been stated to cancel the selection process, I am of the view, Ext.P4 is liable to be set aside. In view of the fact that President has to take independent decision for appointment, this Writ Petition is disposed of directing the President to take decision within a period of one month from the date of receipt of a copy of this judgment in the light of discussions as above. Sd/- A.MUHAMED MUSTAQUE, JUDGE. Sbna/23/02/15

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