

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

THURSDAY, THE 10TH DAY OF SEPTEMBER 2015/19TH BHADRA, 1937

Con.Case(C).No. 817 of 2015 (S) IN WP(C).30000/2012

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AGAINST JUDGMENT DATED 12-02-2014 IN WP(C) 30000/2012 OF
HIGH COURT OF KERALA**

PETITIONER/PETITIONER IN WPC:

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KRISHNANKUTTY P,
AGED 51 YEARS, S/O.PURUSHOTHAMAN PILLAI,
KRISHNA VILASOM, KOTTOOR
KALLARA PO, THIRUVANANTHAPURAM 695608**

**BY ADVS.SRI.S.MOHAMMED AL RAFI
SRI.N.NISHAM**

RESPONDENTS/1ST AND ADDITIONAL 4TH RESPONDENT IN WPC:

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1. AJITH PATEL I. A.S
(AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER),
MANANGING DIRECTOR
JALA BHAVAN, VELLAYAMBALAM, THIRUVNANATHAPURAM 695010**

**2. JACOB PUNNOOS I.P.S
(AGE AND FATHER'S NAME NOT KNOWN TO THE PETITIONER)
CHIEF COMMISSIONER AND PRINCIPAL CO ORDINATOR
NATIONAL SPORTS AUTHORITY
NATIONAL GAMES SECRETARIAT
CHANDRASEKHAR NAIR STADIUM, PALAYAM, TRIVANDRUM 33**

**R1 BY ADV. SRI.JOSEPH JOHN, SC, KERALA WATER AUTHORITY
R2 BY ADV. GOVERNMENT PLEADER**

**THIS CONTEMPT OF COURT CASE (CIVIL) HAVING BEEN FINALLY HEARD
ON 10-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

AMG

APPENDIX

PETITIONERS' EXHIBITS

- ANNEXURE-A- TRUE COPY OF THE JUDGMENT DATED 12-02-2014 IN WPC No.30000/2012 OF THIS HON'BLE COURT.
- ANNEXURE-B- TRUE COPY OF THE LETTER No.KWA/JB/E7/13038/2012 DATED 14-08-2014 ISSUED BY THE 1ST RESPONDENT.
- ANNEXURE-C- TRUE COPY OF THE LETTER No.PHDN-T/E1/36 (38) 15 DATED 13-05-2015.

RESPONDENTS' EXHIBITS

- ANNEXURE-R2 (a) - TRUE COPY OF G.O. (RT) No.57/15/S&YA DATED 24-03-2015.
- ANNEXURE-R2 (b) - TRUE COPY OF LETTER No.762(A)/ENGG/12/NGS DATED 04-04-2015.

True copy

P.A. To Judge

AMG

C.K. ABDUL REHIM, J.

Con. Case (c) No. 817 OF 2015

DATED THIS THE 10th DAY OF SEPTEMBER, 2015.

J U D G M E N T

This contempt of court case is filed by the petitioner alleging non-compliance of Annexure-A judgment. Grievance voiced in the writ petition was that, despite the petitioner being advised by the Public Service Commission for appointment as a 'Life Guard-cum-Coach' in the Kerala Water Authority, no appointment order was issued inspite of various representations submitted. The Kerala Water Authority had intimated the petitioner that no appointment could be made because the swimming pool under their custody is now under re-construction and the existing employees themselves were deployed to other divisions. The Water Authority had informed to this court that the swimming pool in question has been handed over to the National Games Secretariat, in connection with the '35th National Games' scheduled to be conducted and that re-construction works were undertaken by the National Games

Secretariat. Under such circumstances, it was submitted that, there exists no vacancy to accommodate the petitioner. On that basis this court found that the Water Authority cannot be compelled to make appointment of the petitioner on the basis of the advise made by the PSC. However it was directed that as and when steps were taken to fill up any vacancy of 'Life Guard-cum-Coach' appointment shall be given to the petitioner on the basis of the advise, considering his priority.

2. This contempt of court case is filed raising an allegation that the National Sports Authority had completed construction of the swimming pool and it was inaugurated on 23-01-2015. It is stated that the said authority had failed to hand over the swimming pool back to the Water Authority eventhough the event of the National Games is over. Alleging that there is delay caused in handing over back custody of the swimming pool to the Water Authority and alleging about the continuance of a temporary employee appointed by the National Games Authority, it is contended that there is violation of Annexure-A judgment.

3. The 1st respondent had filed an affidavit pointing out Annexure-B letter issued to the petitioner intimating that he will be given posting as and when the swimming pool is received back under possession of the Kerala Water Authority. It is stated that the swimming pool, after renovation by the National Games Authority, has not been handed over to the Kerala Water Authority till date. Hence the Water Authority is not in a position to make appointment of the petitioner.

4. The 2nd respondent had also filed an affidavit stating that, after completion of the event of the National Games the Government have issued Annexure-R2 (a) order dated 23-04-2015 directing the National Games Secretariat to place the infrastructure at the swimming pool in question at the disposal of the 'Directorate of Sports and Youth Affairs'. Accordingly the facilities at the swimming pool was now handed over to the 'Directorate of Sports and Youth Affairs' on 06-04-2015 as evidenced from Ext.R2 (b). Therefore it is mentioned that, at present the facilities at the swimming pool are in the custody of 'Directorate of

Sports and Youth Affairs' and that the 2nd respondent is nothing to do with the administration of swimming pool. It is also denied that the 2nd respondent had appointed a temporary 'Life Guard-cum-Coach' in the swimming pool.

5. From the rival contentions raised, it is evident that no vacancy of 'Life Guard-cum-Coach' had arisen within the Kerala Water Authority after passing of Annexure-A judgment. There is no case for the petitioner that the Water Authority had appointed anybody else as 'Life Guard-cum-Coach' after the judgment, in violation of its terms. Therefore this court do not find any materials to proceed against the respondents under the Contempt of Courts Act. Hence the above contempt of court is hereby closed.

6. However it is made clear that the petitioner will be at liberty to seek appropriate other remedies for getting appointment on the basis of the advise made by the PSC, if so advised.

Sd/-
C.K. ABDUL REHIM
JUDGE

AMG

True copy

P.A. to Judge