

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

TUESDAY, THE 29TH DAY OF SEPTEMBER 2015/7TH ASWINA, 1937

RP.No. 835 of 2015 (P) IN WP(C).23147/2015

**AGAINST THE JUDGMENT IN WP(C) 23147/2015 of HIGH COURT OF KERALA DATED
17-08-2015**

REVIEW PETITIONER/NOT PARTY IN WRIT PETITION:

**S.VINOD, AGED 46 YEARS, S/O SAHADEVAN,
EVALUATION ASSISTANT, DIRECTORATE OF HEALTH SERVICE
THIRUVANANTHAPURAM, RESIDING AT NAVOMI,
PADA NORTH, KARUNAGAPPALLY PO
KOLLAM DISTRICT - 690 518**

**BY ADVS.SRI.M.V.BOSE
SRI.VINOD MADHAVAN
SMT.NISHA BOSE**

RESPONDENTS/RESPONDENTS & PETITIONERS IN WPC:

- 1. STATE OF KERALA REPRESENTED BY THE
PRINCIPAL SECRETARY,
HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001**
- 2. THE SECRETARY,
HEALTH AND FAMILY WELFARE DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM - 695 001**
- 3. DIRECTOR OF HEALTH SERVICES, DIRECTORATE
THIRUVANANTHAPURAM - 695 001**
- 4. THE DISTRICT MEDICAL OFFICER,
ALAPPUZHA - 688 001**
- 5. LOVELY, AGED 40 YEARS,
W/O O.HENRY AUSTIN DICRUZE, PULIMOOTTIL HOUSE
ARYADU PO, AARYADU VILLAGE,
AMBALAPUZHA TALUK, ALAPPUZHA DISTRICT
NOW WORKING AS JUNIOR PUBLIC HEALTH NURSE,
GR.II, (JPHN) RURAL HEALTH TRAINING CENTRE, CHETIKAD
PATHIRAPPALLY PO, ALAPPUZHA DISTRICT - 688 006**

(CNTD)

6. PREETHY S., AGED 40 YEARS, W/O DANTES
VADAKKE VEETIL HOUSE, AVALOOKKUNNU PO, ALAPPUZHA
NOW WORKING AS JUNIOR PUBLIC HEALTH NURSE,
GR.II, (JPHN) RURAL HEALTH TRAINING CENTRE, CHETIKAD
PATHIRAPPALLY PO, ALAPPUZHA DISTRICT - 688 006
7. SYNO V., AGED 53 YEARS, W/O BHANUDAS,
KOCHUVELUTHEDATHU PARAMBU, PONGA PO,
NEDUMUDI, ALAPPUZHA DISTRICT 688 503
NOW WORKING AS PUBLIC HEALTH NURSE (PHN)
COMMUNITY HEALTH CENTRE, CHEMPUPURAM
CHEMPUPURAM PO, ALAPPUZHA DISTRICT
8. SASIKALA C.P., AGED 51 YEARS,
W/O S. DILEEPKUMAR,
KATTUVELIKKATHU HOUSE, NORTH ARYAD PO
KOMALAPURAM VILLAGE, AMBALAPUZHA TALUK
ALAPPUZHA DISTRICT - 688 542
NOW WORKING AS PUBLIC HEALTH NURSE (PHN)
COMMUNITY HEALTH CENTRE, KUMBALANGI
KUMBALANGI P.O., ERNAKULAM DISTRICT

R1 -R4 BY SRI T.J.MICHAEL, SENIOR GOVERNMENT PLEADER

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 29-09-2015, THE
COURT ON THE SAME DAY PASSED THE FOLLOWING:

ANIL K. NARENDRA, J.

R.P. No.835 of 2015

in

W.P.(C) No.23147 of 2015

Dated this the 29th day of September, 2015

ORDER

This review petition is filed by a third party to the litigation seeking an order to review judgment dated 17.08.2015 of this Court in W.P.(C) No.23147/2015.

2. By judgment dated 17.08.2015, W.P.(C). No.23147/2015 filed by respondents 5 to 8 was disposed of based on a memo filed by the learned Government Pleader dated 10.08.2015 producing therewith a letter dated 07.08.2015 of the 3rd respondent addressed to the Advocate General, Kerala, in which the 3rd respondent has undertaken that Ext.P1 order will be implemented as early as possible.

3. The main ground raised in this review petition is that implementation of the judgment will seriously affect the review petitioner and other Evaluation Assistants working in the Directorate of Health Services and as such the writ petition ought to have been filed with affected parties in the party array.

The review petitioner would contend among other things that, the subject matter of the writ petition is a service matter pertaining to the Health and Family Welfare Department, and as such the petitioner has to approach the Kerala Administrative Tribunal.

4. I heard the arguments of the learned counsel for the petitioner, learned Government Pleader appearing for respondents 1 to 4 and also the learned counsel appearing for respondents 5 to 8.

5. The fact that, the implementation of Ext.P1 order pursuant to the judgment of this Court dated 17.08.2015 would adversely affect the review petitioner, who is now working as Evaluation Assistant in the Directorate of Health Services is not disputed by the learned counsel for the petitioner. If that be so, the review petitioner is a necessary party and the writ petition filed without impleading the affected party should not have been entertained by this Court.

In that view of the matter, this review petition is allowed and the judgment dated 17.08.2015 in W.P.(C).No.23147/2015 is recalled. The Registry is directed to post the writ petition before appropriate bench as per roster, immediately.

The contentions raised by the review petitioner regarding maintainability of the writ petition is left open to be decided in the writ petition.

It is for the review petitioner to move an appropriate application in the writ petition to get himself impleaded as an additional respondent.

SD/-
ANIL K. NARENDHAN,
JUDGE

JV