

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

RP.No. 1041 of 2014 () IN WA.1115/2012

AGAINST THE ORDER/JUDGMENT IN WA 1115/2012 of HIGH COURT OF KERALA
DATED 01-07-2014

REVIEW PETITIONER(S):

UNIVERSITY OF KERALA
REPRESENTED BY ITS REGISTRAR, THIRUVANANTHAPURAM.

BY ADV. SRI.BECHU KURIAN THOMAS, SC, UNIVERSITY

RESPONDENT(S):

1. C.LAILESWARAN
S/O.CHELLAPPAN, HALASYA MADAM, VALIYARATHALA
OORUTTAMBALAM, NEYYATTINKARA
THIRUVANANTHAPURAM - 695 013.

2. THE KERALA LOK AYUKTA
REPRESENTED BY ITS REGISTRAR
THIRUVANANTHAPURAM - 695033.

BY SRI.SAJITH KUMAR V.

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON
06-03-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**ASHOK BHUSHAN, Ag.CJ
&
P.R.RAMACHANDRA MENON, J**

R.P.No.1041/14 in WA.1115/12

Dated this the 5th March, 2015

O R D E R

Ramachandra Menon, J.

The judgment dated 1.7.2014 passed by this Court in W.A.No.1115 of 2012 is sought to be reviewed by the University stating that there is apparent error on the face of record. The main ground of challenge raised in the Writ Appeal was that the version of the review petitioner University that the Lok Ayukta did not have any power to pass the impugned proceedings, was not properly considered or dealt with by the learned Single Judge. After hearing the submissions made across the Bar, it was observed by the Bench that no tenable ground was raised or substantiated and it was accordingly dismissed, which is sought to be reviewed by way of the Review Petition.

2. Heard learned counsel for the review petitioner as well as the learned counsel for the respondents. The

learned counsel for the review petitioner points out that, Exhibit P4 order virtually amounts to an 'order' passed by the Lok Ayukta, directing the University to make appointment to the posts in question, which is beyond the jurisdiction of the Lok Ayukta as held by a Division Bench of this Court in ***State of Kerala v. Bernard*** (2002(3) KLT 254).

3. On going through the materials on record, this Court finds that the stand now taken by the University is different from the earlier stand as no such case with regard to the question of 'jurisdiction' was argued before the Bench. This is discernible from Exhibit P4 order passed by the Lok Ayukta, wherein reference is made to the nature of contention raised by the University (as it appears in paragraph 2).

4. A statement was filed by the University with regard to the delay in effecting appointment after inviting applications and conducting the test. In the statement, the University contended that the appointment of candidates selected was not being done, for the reason

that the University was not able to find out an external agency for conducting the practical test. This was deprecated by the Upa Lok Ayukta, holding that, the University, after conducting test was not able to find out an external agency to conduct practical test for selection of Drivers was not liable to be accepted. Exhibit P4 order was passed accordingly, leading to other proceedings. This was sought to be challenged by the University before the learned Single Judge. After considering the nature of contention raised and also the other incidental aspects, the learned Single Judge observed in the judgment dated 22.9.2010 that the University had not challenged the order dated 14.5.2010, but accepted the same and filed an affidavit seeking extension of time for compliance of the said order. The said extension application was rejected by the Upa Lok Ayukta and it was only when they were facing contempt proceedings for non-compliance, the Writ Petition came to be filed. In the said circumstances, interference was declined and the learned Single Judge dismissed the Writ Petition, which was the

subject matter of appeal that came to be affirmed by the Division Bench.

5. In view of the fact that this Court has set the petitioner at liberty to bring all the relevant facts in the contempt proceedings before the Upa Lok Ayukta and further since there is no error apparent on the face of the records, it is not a fit case to invoke the power of review. Interference is declined in view of the law laid down by the Apex Court in ***Meera Bhanja v. Nirmala Kumari Choudhury*** (AIR 1995 SC 455).

The Review Petition is accordingly dismissed. We make it clear that we have not made any opinion with regard to the merit of the disputed facts raised in the Review Petition.

**ASHOK BHUSHAN
ACTING CHIEF JUSTICE**

**P.R.RAMACHANDRA MENON
JUDGE**

vgs