

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WA.No. 1271 of 2015 () IN WP(C).7709/2014

AGAINST THE ORDER/JUDGMENT IN WP(C) 7709/2014 of HIGH COURT
OF KERALA DATED 20-05-2015

APPELLANTS:

1. VINU K.B.
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ULF & FRDS (UNIVERSITY LIVESTOCK FARM &
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MANNUTHY, THRISSUR DISTRICT
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BY ADVS. SRI.K.RAMAKUMAR (SR.)
SRI.S.M.PRASANTH
SRI.C.DINESH
SRI.G.RENJITH
SMT.ASHA BABU
SMT.AMMU CHARLES

RESPONDENTS/PETITIONER & RESPONDENTS:

-
1. VASANTHI, AGED 40,
W/O LATE MOHANAN, ANAMPARAMBIL HIUSE, ARAMKALLU
UDAYAGIRI NAGAR, MANNUTHY PO
 2. VALSALA E.P
W/O KUTTAPPAN, PUPPAADI HOUSE, MULLAKKARA
THOTTAPADI, MANNUTHY PO.
 3. SUMABAI M.S., AGED 38 YEARS,
D/O SUBRAMANIAN, VETTIPARA HOUSE, MULAYAM
AYYAPPANKAVU PO.
 4. SREEJITH M.S, AGED 26,
S/O SASI, MULLASSERY HOUSE, CHIRAKKAKKODE
VELLANIKKARA PO.
 5. AMBIKADEVI, AGED 50,
D/O KUTTAN, AYANIKUNNATHU HOUSE, SUBASH NAGAR
MANNUTHY PO.
 6. SHEELA P.R, AGED 46,
W/O KUJIPPALU, PULIKKOTIL HOUSE, KOZHUKKULLI PO.
 7. RESMI PARAMESWARAN, AGED 29,
D/O PARAMESWARAN, PANAVALAPPIL HOUSE
SREELAKSHMI NAGAR, MANNUTHY PO.
 8. VIJAYAKUMAR M, AGED 39,
S/O NARAYANAN, MUTHEDATH HOUSE, SREELAKSHMI NAGAR,
MANNUTHY. P.O.
 9. KUMARI K.N., AGED 46,
D/O NARAYANAN, VELLANIKKARA HOUSE, MADAKKATHARA PO
MANNUTHY

10. SUMATHI M.K, AGED 47,
D/O KRISHNAN, VELLANIKKARA HOUSE, MADAYAKKATHARA PO
MANNUTHY
11. JINEESH M.P, AGED 24,
S/OPUSHPAN, MATTAHIPARAMBIL, MADAKKATHARA PO
MANNUTHY
12. ALLI M.V, AGED 46,
D/O VELAYUDHAN, THOPPIL HOUSE, KOSHUKKULLI PO
MANNUTHY
13. VALSALA K.G
W/O K.K. RAJAN, KARAMANKOTIL HOUSE, MADAKKATHARA PO
MANNUTHY
14. SHERLY DEVASSY, AGED 38,
W/O K.V. ROBERT, KURIANPARAMBIL HOUSE,
PO MANNUTHY
15. THE KERALA VETERINARY AND ANIMAL SCIENCE
UNIVERSITY
LAKKIDI PO, WAYANAD-673 676
REPRESENTED BY ITS REGISTRAR
16. THE COLLEGE OF VETERINARY AND ANIMAL SCIENCE
UNIVERSITY,
MANNUTHY, THRISSUR-680 651, REPRESENTED BY ITS DEAN
17. THE ASSOCIATE PROFESSOR & HEAD, UNIVERSITY
LIVESTOCK FARM
KVASU, MANNUTHY-680 651
18. THE LABOUR OFFICER
KERALA VETERINARY AND ANIMAL SCIENCE UNIVERSITY
POOKODE, KALLIDI PO, WAYANAD-673 576
19. JISHA M.R
D/O (FATHER'S NAME NOT KNOWN TO THE PETITIONERS)
AGED ABOUT 25, PANAIKKAPARAMBIL HOUSE, MULLAKKARA PO
THRISSUR-680 651
20. SASIKALA P.S
D/O SASEENDRAN, CHELLICKARA HOUSE, AGED ABOUT 30,
KOZHUKKULLI P.O
THRISSUR-680 751

WA.No. 1271 of 2015

21. SOJAN THOMAS
S/O (FATHER'S NAME NOT KNOWN TO THE PETITIONERS)
MADAKKATTU HOUSE, PERIMKUZHI, THRISSUR

R21 BY ADV. SRI.V.BINOY RAM
R15 TO R18 SRI.MILLU DANDAPANI, SC

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
16-07-2015 ALONG WITH W.A. NOS.1290, 1362, 1370, 1373, 1371, 1372,
1390, 1400, 1465 AND 1478 OF 2015, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

smv

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

**W.A. Nos.1271, 1290,1362, 1370,1371, 1372,
1373, 1390, 1400, 1465 and 1478 of 2015**

Dated this the 16th day of July, 2015

JUDGMENT

Antony Dominic,J.

These appeals arise from the common judgment of the learned Single Judge disposing of W.P.(C) Nos. 6199/2014, 7709/2014, 10943/2014 and 13789/2014.

2. Since the issues are common, these appeals were also heard together and are being disposed of by this common judgment.

3. Writ Appeal No.1271/2015, 1370/2015, 1371/2015, 1372/2015, 1373/2015 and 1400/2015 are filed by third parties. They obtained leave from this Court and filed these appeals against the judgments in the aforesaid writ petitions. Writ appeal No.1290/2015, 1362/2015, 1465/2015 and 1478/2015 are filed by the Kerala Veterinary and Animal Sciences University, respondent in all the writ petitions. Writ appeal No.1390 is filed by the 7th respondent in writ petition No.7709/2014 and writ

appeal No.1373 of 2015 filed by respondents 1 to 4 in writ petition No.6199 of 2014.

4. For convenience, we shall be referring to the documents produced in W.P.(C) No.6199/2014, from which W.A No.1373 of 2015 arises.

5. According to writ petitioners, as certified in Ext.P1 and other similar certificates produced in the writ petition, they were imparted training at the Central Training Institute of the Kerala Agricultural University in poultry farm operations. On the strength of the training thus given, they were engaged on casual basis by the University on daily wages which is certified as per Ext.P2 certificate.

6. It is stated that while so, the University initiated steps to terminate their services and to make alternative arrangements for employment in the posts held by the petitioners. Therefore, writ petition No.88001/2010 was filed before this Court. That writ petition was disposed of by Ext.P3 judgment directing consideration of their representations and also to maintain status quo in the meanwhile. Accordingly, the University issued Ext.P4 order dated 23.12.2010 offering to give them weightage for the

casual service rendered by them. They also refer to the minutes of the meeting held on 02.10.2011 produced as Ext.P2 in writ petition No.13789 of 2014, where according to them, the University had agreed to give them further concessions.

7. It is their case that in 2011, after the Kerala Veterinary and Animal Sciences University was formed bifurcating the Kerala Agricultural University, the new University invited applications for casual employment. It is the case of the writ petitioners that they submitted Ext.P5 series of applications. Selection process was completed and finally Ext.P6 select list was published by the University on 26.02.2014. A separate select list of male candidates was also published. According to the writ petitioners, on publication of the select lists and from Ext.P9, the tabulation sheet of marks awarded to the candidates in the selection process, they came to know that the weightage promised earlier was not given to the candidates. They also have a complaint that though the notification did not contemplate separate select lists for male and female candidates, separate select lists were published.

8. They submitted representations to the Head of the

Department which according to them was forwarded to the Registrar by Ext.P7. It was that stage, W.P.(C) No.6199 of 2014 with the following prayers:

- i) Call for records leading to Ext.P6 and issue a writ in the nature of certiorari quashing Ext.P6.
- ii) Issue a writ in the nature of mandamus commanding the 2nd respondent to give the petitioners the weight age for their service as daily wage hand from 2006 May onwards as undertaken in Ext.P3 and assign rank in the seniority list, so as to ensure that the petitioners will be given daily wage work in the 2nd respondent farm.
- iii. Issue such other orders, writs or directions as are deemed fit by this Hon'ble court."

9. The appellant University contended that they had not promised any weightage or other concessions to the petitioners or anybody else. It was also their case that Ext.P4 issued by the Kerala Agricultural University and the promises, if any, made therein did not bind them. University also contended that they did not commit any illegality in finalising the select lists. The writ petitions were heard and were disposed of by the learned Single Judge, quashing the select lists and directing the

University to prepare fresh list after conducting a fresh interview of all applicants giving due weightage as undertaken in Ext.P4 mentioned above and also the minutes of the meeting held on 02.10.2011. It is this judgment which is under challenge before us.

10. We heard the learned Senior Counsel for the appellants Sri.Ramkumar, the other learned counsel appearing for the appellants and Sri.Ranjith Thampan, learned counsel appearing for the respondents in writ appeal No.1290 of 2015, 1372 of 2015 and 1478 of 2015. We also heard Sri. G.Krishna Kumar, learned counsel appearing for the respondents in writ appeal Nos.1271 of 2015, 1309 of 2015, 1362 of 2015, 1370 of 2015 and 1400 of 2015 and Sri.C.A. Chacko, learned counsel appearing for the respondents in writ appeal No.1371 and 1465 of 2015.

11. The learned counsel appearing for the appellants have raised a plea on the very maintainability to the writ petitions itself. According to the learned counsel, in the writ petitions, the main prayer was for quashing the select lists and this prayer was allowed by the learned Single Judge. It is contended that such a prayer could not have been entertained by this Court

without the writ petitioners impleading the candidates included in the select list as parties to the writ petition. It is stated that none of the candidates who are necessary parties, were so impleaded and that this defect of non-joinder of necessary parties rendered the writ petitions not maintainable and that on that sole ground, the judgments are liable to be set aside. However, this argument of the learned counsel appearing for the appellants is sought to be resisted by the learned counsel appearing for the party respondents by contending that the challenge in the writ petitions was against the very basis of selection leading to the finalisation of the select lists, it is unnecessary to implead the selected candidates. They also contended that since inclusion of the names of the candidates in the select lists has not created any vested right in their favour, it was not necessary to implead the selected candidates as parties to the writ petition.

12. We have considered the submissions made. There is no dispute to the fact that the main challenge in the writ petitions, giving rise to these appeals, was against the select lists prepared by the Kerala Veterinary and Animal Sciences University for

engagement as causal labourers. In these writ petitions persons who are included in the lists are not parties. Although in some of the writ petitions, one or two persons included in the lists were impleaded, no steps were taken either to publish in newspapers notice of the writ petition or to complete the formalities for their impleadment in representative capacity. We also notice that though in writ petition Nos.6199 and 13789 of 2014, the writ petitioners had filed applications for impleading the party respondents therein in representative capacity, they had not taken any steps for obtaining orders in the applications or to complete necessary procedure for impleadment in representative capacity. In other words, the writ petitions were filed without impleading the necessary parties, i.e., the candidates who are included in the select lists which was sought to be quashed and which prayer was allowed in the judgments under appeal.

13. Law is settled that persons who are likely to be affected by orders of court are necessary parties and such necessary parties should be impleaded in the writ petition. That requirement of law has been incorporated in Rule 148 of the Kerala High Court Rules. This necessity has also been explained

in the various judgments of the Apex Court including **Siraj v.High Court of Kerala** [2006 (2) KLT 923], **Kerala State Toddy Shop Contractor's Association v. Prathapan** [2014(4) KLT 705] and **H.C.Kulwant Singh & Ors. v. H.C.Daya Ram and Ors.** [AIR 2014 SC 3083]. It is true that the writ petitioners contended that since the basis of the selection leading to the select lists was challenged by them, it was not necessary to implead the selected candidates. This argument was on the basis that the responsibility to justify the select lists is that of the University. It is also argued that by inclusion in the select lists, no vested right is created. According to us, in the light of the principles laid down in the judgments mentioned above and also Rule 148 of the Kerala High Court Rules, such an argument cannot be accepted. The Apex Court judgments in **Union Territory of Chandigarh v. Dilbagh Singh and others** [(1993) 1 SCC 154 and **R.S. Ajara and Others v.State of Gujarat and others** [(1997) 3 SCC 641] were relied on by the counsel for the writ petitioners . Having gone through these judgments, we do not find a principle that writ petitions can be filed without impleading necessary parties. Therefore, these

judgments would not improve the case pleaded by the respondents.

14. For all these reasons, we are satisfied that the writ petitions filed without impleading candidates included in the select lists were defective for non-joinder of necessary parties. For that reason itself, the learned Single Judge should have declined the prayers.

15. For the above reasons and without examining the other contentions, the judgments under appeal are liable to be set aside. Accordingly, the judgments are set aside and the writ petitions are dismissed.

Writ appeals are allowed. No costs.

Sd/-

**ANTONY DOMINIC
JUDGE**

Sd/-

**SHAJI P. CHALY
JUDGE**

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P.A. To Judge

smv