

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 5TH DAY OF AUGUST 2015/14TH SRAVANA, 1937

WA.No. 1637 of 2015 () IN WP(C).15588/2015

AGAINST THE ORDER IN I.A. NO.7608/2015 IN WP(C) 15588/2015 of
HIGH COURT OF KERALA DATED 02.07.2015.

APPELLANTS/PETITIONER IN I.A.7608/15:

1. COCHIN DEVASWOM BOARD
THRISSUR, REPRESENTED BY ITS SECRETARY
THRISSUR - 688 001.
2. SREE KERALA VARMA COLLEGE,
KANATTUKARA P.O, THRISSUR - 680 011
REPRESENTED BY ITS PRINCIPAL.

BY ADV. DR.GEORGE ABRAHAM

RESPONDENT/RESPONDENT IN I.A.:

1. SUNILKUMAR P.
ARACKAL PARAMBIL, EDETTY P.O., THODUPUZHA
IDUKKI DISTRICT – 685 585.

** Addl.R2: CALICUT UNIVERSITY, REPRESENTED BY ITS REGISTRAR,
THENHIPALAM, CALICUT UNIVERSITY P.O.,
MALAPPURAM – 673 635.
ADDL.R2 IS SUO MOTU IMPEADED AS PER ORDER DATED 28.7.2015.

ADDL 2 BY ADV. SRI.SANTHOSH MATHEW,SC,CALICUTY
UNIVERSITY

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 05-
08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

APPELLANT'S ANNEXURES:

ANNEXURE – A : COPY OF THE ORDER PASSED BY THIS HON'BLE LEARNED SINGLE JUDGE.

ANNEXURE – B : COPY OF THE ORDER PASSED BY THE LEARNED JUDGE DATED 2.7.2015 IN INTERLOCUTORY APPLICATION NO.7608/2015 IN WRIT PETITION (CIVIL) 15588/2015.

ANNEXURE – C : TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE RESPONDENT HEREIN, ALONG WITH THE IMPLEADING PETITION.

ANNEXURE – D : TRUE COPY OF THE COMMUNICATION ISSUED BY THE REGISTRAR, CALICUT UNIVERSITY, DATED 23-12-2014.

ANNEXURE – E : TRUE COPY OF THE COMMUNICATION SENT BY THE PRINCIPAL, SREE KERALA VARMA COLLEGE, DATED 27.02.2015.

ANNEXURE – F : TRUE COPY OF THE COMMUNICATION SENT BY THE SECRETARY, COCHIN DEVASWOM BOARD, ON 27.02.2015.

ANNEXURE – G : TRUE COPY OF THE COMMUNICATION ISSUED BY THE SREE KERALA VARMA COLLEGE ON 08.07.2014.

ANNEXURE - H : TRUE COPY OF THE COMMUNICATION SENT BY THE SECRETARY, COCHIN DEVASWOM BOARD, DATED 22.07.2014.

ANNEXURE – I : TRUE COPY OF THE ORDER DATED 10.07.2015 ISSUED BY THE CALICUT UNIVERSITY.

RESPONDENTS' ANNEXURES; NIL

//TRUE COPY//

P.A. TO JUDGE

smv

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

W.A. No.1637 of 2015

Dated this the 5th day of August, 2015

JUDGMENT

Antony Dominic,J.

Writ Petition No.15588 of 2015 was filed by the respondent herein impleading the appellants as respondents 1 and 2. In the writ petition, contention raised was that in response to Ext.P1 notification issued by the appellants inviting application for posts, including that of Assistant Professor in Zoology, respondent had submitted his application. According to him, on conclusion of the selection process, Ext.P2 ranked list was finalised including him as rank No.4. His case was that appointment has been offered to Sl.Nos. 1 to 3 in the list and that a vacancy was arising on 31.05.2015. According to him, ignoring his claim, appellants were going to notify the vacancy afresh. Therefore, he filed the writ petition with a prayer to direct the appellants to appoint him as Assistant Professor in Zoology in the second appellant college.

2. When the writ petition came up for consideration, after

hearing the submissions made by both parties, the learned Single Judge passed interim order dated 27.05.2015 directing the appellants to provisionally appoint the respondent as Assistant Professor in Zoology w.e.f 01.06.2015 in the second appellant college. Seeking to get the said order vacated, appellants filed I.A. No.7608 of 2015 and the learned Single Judge declined to vary the interim order except clarifying that the appointment shall be provisional and that the vacancy is one arising on 01.06.2015. Aggrieved by this order of the learned Single Judge, appellants have filed this appeal.

3. This appeal initially came up for the consideration of this Court on 28.07.2015, when referring to Annexure – D annexed the affidavit filed in I.A No.7608 of 2015, counsel for the appellants asserted that in terms of the University Statutes for filling up one post, list consisting of three candidates has to be prepared and that the rank list consisting first three persons was prepared and submitted to the Hon'ble Ombudsman for the Travancore and Cochin Devaswom Board for his approval. On this basis it was contended that it is clear from Annexure – D that the respondent's name did not figure in the ranked list.

Therefore, according to the appellants, order of the learned Single Judge requiring that the respondent should be appointed provisionally cannot be sustained.

4. However, on behalf of the respondent, it was asserted that the Calicut University, though not a party to the writ petition, had clarified before the learned Single Judge that in the ranked list submitted to them, the name of the respondent was included at Sl.No.4 and that it was taking note of that submission also, that the learned Single Judge passed the order impugned. Taking note of the rival submissions made, this Court passed order dated 28.07.2015 impleading the University and also directing that the factual position in regard to the aforesaid rival submissions made at the Bar shall be clarified by it.

5. Today, when the matter was taken up, Standing counsel for the Calicut University produced before us the files of the university containing the ranked list that was submitted by the appellants. A perusal of the files shows that the ranked list that was submitted by the appellants to the University, for the post of Assistant Professor in Zoology, contains the name of the respondent at Sl.No.4. This, therefore, shows that the assertion

made by the appellants before this Court when the writ appeal was filed that the ranked list contained the names of only three persons and that respondent's name did not figure in the ranked list is factually incorrect.

6. This, therefore, shows that the facts stated by the appellants in the statement filed in the writ petition and the memorandum of appeal did not reflect the factual position. In such circumstances, we are not inclined to entertain this appeal or to interfere with the impugned order passed by the learned Single Judge.

Appeal fails and it is accordingly dismissed.

Sd/-
**ANTONY DOMINIC
JUDGE**

Sd/-
**SHAJI P. CHALY
JUDGE**

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P.A. To Judge