

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 17TH DAY OF NOVEMBER 2015/26TH KARTHIKA, 1937

WA.No. 2477 of 2015 IN WP(C).14835/2015

AGAINST THE JUDGMENT IN WP(C)14835/2015 of
HIGH COURT OF KERALA DATED 05-10-2015

APPELLANT(S)/PETITIONER:

BALANAND A.V
ARACKAPARAMBIL HOUSE, PANAMBUKAD, VALLARPADOM P O
ERNAKULAM-682504.

BY ADVS.SRI.K.I.MAYANKUTTY MATHER
SRI.VINEETH KOMALACHANDRAN

RESPONDENT(S)/RESPONDENTS:

1. KERALA BOOKS AND PUBLICATIONS SOCIETY
REPRESENTED BY ITS MANAGING DIRECTOR, KAKKANAD P O
KOCHI-682030.
2. THE EMPLOYMENT OFFICER
DISTRICT EMPLOYMENT EXCHANGE, CIVIL STATION
KAKKANAD-682030.
3. THE SECRETARY
PRINTING AND STATIONERY
KERALA BOOKS AND PUBLICATIONS SOCIETY, ROOM NO.504
5TH FLOOR, SECRETARIAT ANNEXE
THIRUVANANTHAPURAM-695 001.
4. ANAS MASOOD, HELPER
KERALA BOOKS AND PUBLICATIONS SOCIETY, KAKKANAD P O
KOCHI-682030.
5. SUNEESH A.H., HELPER
KERALA BOOKS AND PUBLICATIONS SOCIETY, KAKKANAD P O
KOCHI-682030.

R2 BY Sr.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R1 BY SMT.LATHA ANAND
R4,5 BY SRI.N.B.SUNILNATH

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 17-11-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WA.No. 2477 of 2015 IN WP(C).14835/2015

APPENDIX

APPELLANT'S EXHIBITS :

ANNEXURE A : TRUE COPY OF THE INFORMATION RECEIVED FROM RESPONDENTS 1 AND 2 UNDER THE RIGHT TO INFORMATION ACT.

ANNEXURE B : TRUE COPY OF THE INFORMATION RECEIVED FROM RESPONDENTS 1 AND 2 UNDER THE RIGHT TO INFORMATION ACT.

RESPONDENTS' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE

ami/

**ASHOK BHUSHAN, C.J. &
A.M.SHAFFIQUE, J.**

W.A.No.2477 of 2015

Dated this the 17th day of November, 2015.

J U D G M E N T

SHAFFIQUE, J.

The appeal is filed against the judgment dated 5.10.2015 in W.P.(C)No.14835/15. The petitioner has approached this Court seeking for a direction to quash Ext.P9 rank list, to the extent to which the rank list declined to provide separate reservation to Dheewara community members in terms of Ext.P10 Government Order and to appoint the petitioner to the post of Helper in the 1st respondent organisation, taking into consideration the reservation ensured for Dheewara community.

2. Counter affidavit has been filed by the 1st respondent inter alia stating that requisitioning form for 23 posts was forwarded by the said respondent on 21.8.2012 to the District employment exchange. The 2nd respondent District Employment exchange has forwarded a list of 100

candidates vide letter dated 17.1.2013. The number of candidates to be appointed under each category against the 23 vacancies was furnished by the Employment exchange based on the communal rotation roster maintained by them. According to them, the appointments shall be made based on the directions issued and in terms of community reservation. It is also pointed out that there was no reserved post for Dheewara community as per Ext.R1(b).

3. Counter affidavit has been filed by the 2nd respondent also, stating that in respect of 23 vacancies of Helpers, which were reported by the 1st respondent, steps were taken to submit a list of suitable candidates to the employer. As per the 100 point reservation chart, 2% is reserved for Dheewara community and one vacancy has already been given to Dheewara in the vacancies reported previously as turn 18. Ext.R2(a) is the reservation chart produced. It is also stated that another turn for Dheewara community will be given in future as turn 88.

4. The learned Single Judge after considering the matter, has observed that since only 23 vacancies had been reported and the 18th vacancy has already been filled up, there is no reason in giving a direction as sought for. Accordingly, the writ petition was dismissed.

5. The learned counsel for the appellant relied on Annexure B information obtained under the Right to Information Act to contend that no Dheewara person has been recommended to the said post. This is an information given by the District Employment Exchange on 13.10.2015. But it could be seen from the reply filed by the petitioner that he admits the fact that one Mr.Biburaj, who belonged to Dheewara Community, was given appointment by the 1st respondent, but later he abandoned the job. He was aware of the said fact and his claim was that the said vacancy has to be filled up by another Dheewara Community. It is also stated that another Dheewara, one Mr.Manikuttan, was considered and given appointment by the 1st respondent.

6. It is based on the aforesaid factual matters, the learned Single Judge has dismissed the writ petition. We do not think that the learned Single Judge has committed any error in dismissing the writ petition. The information received by the petitioner was subsequent to the judgment of the learned Single Judge, which cannot be a matter that could be taken into consideration, especially when an admission has been made by the petitioner in his reply affidavit. Hence, there is no merit in the grounds raised, to exercise the appellate jurisdiction. Accordingly, this writ appeal is dismissed.

Sd/-
ASHOK BHUSHAN,
CHIEF JUSTICE.

Sd/-
A.M.SHAFFIQUE,
JUDGE.

ami/

//True copy//

P.A. to Judge