

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WP(C).No. 3525 of 2015 (M)

PETITIONER(S):

M.P.KESAVAN,
S/O. DEVAKI BRAHMANI,
11/596-3, PRANAVAM,
INDIRA NAGAR, KUTTUMUKKU, R.V. PURAM P.O.
THRISSUR, PIN -680 631.

BY ADVS.SMT.SREEDEVI KYLASANATH
SRI.ACHUTH KYLAS
SRI.M.JAYAKRISHNAN
SRI.V.L.MONY

RESPONDENT(S):

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1. STATE OF KERALA
REPRESENTED BY THE SECRETARY, DEVASWOM DEPARTMENT
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.
 2. THE COMMISSIONER,
MALABAR DEVASWOM BOARD, CIVIL STATION
KOZHIKODE - 673 001.
 3. THE ASSISTANT COMMISSIONER
MALABAR DEVASWOM BOARD, CIVIL STATION, KOZHIKODE.
 4. P.C. VELAYUDHAN KUTTY.,
S/O. MAMBULAKKAL KUNJURAMAN NAIR, VISHNUSREE
MUNDPARAMBU P.O., MALAPPURAM - 676 509.
 5. HARIDASAN K.P.
S/O.BALAKRISHNAN NAIR V.P., SREE HARI HOUSE, KAVUNGAL
MALAPPURAM-676505.
 6. PRADEEP KUMAR C.,
S/O. GOPALAN C., CHUNGAPPALLY HOUSE, MUNAMPADY,
MALAPPURAM - 676 509.
 7. PRASAD K.,
S/O. AMBUKUNJI, KONOOR HOUSE, KALAMPADI,
MALAPPURAM-676505.

8. THE EXECUTIVE ENGINEER,
TRIPURANTHAKA DEVASWOM,
MALAPPURAM-676505.
9. THE INSPECTOR,
OFFICE OF THE INSPECTOR, MALABAR DEVASWOM BOARD,
MANJERI DIVISION, MALAPPURAM.

R2 & 3 BY SRI.K.R.SUNIL, SC, MALABAR DEVASWOM BOARD
R4,R5-R7 BY ADV. SRI.K.MOHANAKANNAN
R4,R5&7 BY ADV. SMT.A.R.PRAVITHA
R2,R3 & 9 BY SRI.PARTHASARATHY B, SC, MALABAR DEVASWOM BOARD
BY GOVERNMENT PLEADER SMT.C.K.SHERIN.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT-P1- TRUE COPY OF THE SCHEME.
- EXHIBIT-P2- TRUE COPY OF THE ORDER DATED 30/07/2014 OF THE ASSISTANT COMMISSIONER, MALABAR DEVASWOM BOARD.
- EXHIBIT-P3- TRUE COPY OF THE NOTIFICATION DATED 18/03/2014.
- EXHIBIT-P4- TRUE COPY OF THE INSPECTION REPORT DATED 25/06/2014 ALONG WITH THE DETAILS OF APPLICANTS SUBMITTED BY THE INSPECTOR, MALABAR DEVASWOM BOARD, MANJERI.
- EXHIBIT-P5- TRUE COPIES OF THE INFORMATION SOUGHT AND THE DOCUMENTS RECEIVED UNDER RT ACT SHOWING 4TH RESPONDENT CONTESTED LOCAL SELF GOVERNMENT ELECTION AS CONGRESS CANDIDATE.
- EXHIBIT-P6- TRUE COPY OF THE UDF MANIFESTO OF 2005 ELECTION SHOWING 5TH RESPONDENT AS A CANDIDATE OF UDF.
- EXHIBIT-P7- TRUE COPY OF THE SRO NO. 480/2014 AMENDING THE KERALA GOVERNMENT SERVANT'S CONDUCT (AMENDMENT) RULES, 2014.
- EXHIBIT-P8- TRUE COPY OF THE COMMON JUDGMENT DATED 27/10/2005 OF THE DIVISION BENCH IN W.P(C) 18989/2004, W.P(C) 6718/2004 AND CONNECTED CASES.
- EXHIBIT-P9- TRUE COPY OF THE ORDER DATED 24/04/2006 OF THE HONOURABLE SUPREME COURT IN S.L.P 4121/2006.
- EXHIBIT-P10- TRUE COPY OF THE JUDGMENT DATED 11/06/2008 IN W.P(C) 36545/2005.
- EXHIBIT-P11- TRUE COPY OF THE ORDER DATED 29/03/2004 IN W.P(C) 6718/2004.

RESPONDENT(S) ' EXHIBITS :

- EXHIBIT-R1 (A) - TRUE COPY OF THE INTERIM ORDER PASSED IN WRIT PETITION (C) 10691/2014 DATED 11/04/2014
- EXHIBIT-R1 (B) - TRUE COPY OF THE ORDER PASSED BY THE 2ND RESPONDENT NO.2/3296/2014/MDB DATED 06/10/2014.
- EXHIBIT-R1 (C) - TRUE COPY OF THE ORDER PASSED BY THE DEPUTY COMMISSIONER A4-1154/2014/MDB/K.DIS. DATED 16/01/2015.
- EXHIBIT-R1 (D) - TRUE COPY OF THE JUDGMENT IN WRIT PETITION (C)10691/2014 DATED 19/01/2015.
- EXHIBIT-R1 (E) - TRUE COPY OF THE STATEMENT SUBMITTED BY THE THEN HEREDITARY TRUSTEE BEFORE THE DEPUTY COMMISSIONER ON 15/12/2005.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.MUHAMED MUSTAQUE, J.

W.P(C)No.3525 of 2015

Dated this the 16th day of September, 2015

J U D G M E N T

The petitioner, aggrieved by the appointment of Non-Hereditary Trustees in Thripuranthaka Devaswom, Malappuram, has approached this Court. According to the petitioner, certain politicians have been appointed overlooking the guidelines and directions in the judgment of this Court, which is produced as Ext.P8. Petitioner also now refers to Exts.P5 and P6 to substantiate his claim that certain persons belonging to political parties have been appointed .

2. Learned Standing Counsel submitted that the petitioner has a statutory remedy before the Commission for Devaswom. Party respondents dispute the allegation of the petitioner that they do belong to any political parties.

3. The question raised by the petitioner is a disputed question of fact. It requires a factual probe. In that view of the matter, the

petitioner has to resort to statutory remedy by filing revision.

Therefore, this writ petition is disposed of with the following directions:-

If the petitioner files a revision under Section 18 before the second respondent within two weeks from the date of receipt of a copy of this judgment, the same shall be considered by the Commissioner after hearing the petitioner and the party respondents within a period of two months from the date of moving such application.

This writ petition is disposed of as above.

A.MUHAMED MUSTAQUE,
Judge

MBS/

