

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 13TH DAY OF FEBRUARY 2015/24TH MAGHA, 1936

WP(C).No. 4439 of 2015 ()

PETITIONER :

**PAYYANNUR LABOUR CONTRACT CO-OP SOCIETY LTD. C-1133,
REPRESENTED BY THE SECRETRY, SWARNALATHA.C.,
PAYYANNUR LABOUR CONTRACT CO-OP SOCIETY LTD.,
CHALIL, KANDOTH, KANNUR- 670 307.**

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENT(S):

- 1. DIRECTOR OF PORTS,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE PORT OFFICER,
KOZHIKODE - 673 015.**
- 3. SENIOR PORT CONSERVATOR,
KANNUR, AZHIKKAL- 670 009.**
- 4. TENDER EVALUATION COMMITTEE,
REPRESENTED BY DIRECTOR OF PORTS,
THIRUVANANTHAPURAM - 695 001.**

BY SR GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

sts

WP(C).No. 4439 of 2015 ()

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1- TRUE COPY OF THE APPLICATION FOR ALLOTMENT OF MANUAL DREDGING WORK FOR THE YEAR 2014-2015 SUBMITTED BY THE PETITIONER.

EXHIBIT-P2- TRUE COPY OF THE AMENDED BYE LAW

EXHIBIT-P3- TRUE COPY OF THE AMENDMENT REGISTRATION CERTIFICATE DATED 28/04/2014.

EXHIBIT-P4- TRUE COPY OF THE REPRESENTATION DATED 28/01/2015 SUBMITTED BY THE PETITIONER.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO.JUDGE

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P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 4439 of 2015

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Dated, this the 13th day of February, 2015

JUDGMENT

The petitioner society has approached this Court with the following prayers :

- i) To declare that the petitioner society is entitled to get allotment of manual dredging works for the year 2014 - 15 as a duly qualified society;
- ii) To declare that the petitioner society has 90% of members of manual dredging workers;
- iii) To issue a writ of mandamus directing the petitioner to treat the petitioner society as duly qualified for allotment of manual dredging work at Azheekkal Port for 2014 - 2015 and subsequent years;
- iv) To issue a writ of mandamus directing the respondents to allot the manual dredging works at Azheekkal port on the basis of the points obtained by the in the tender process;
- v) To issue such other orders, directions or writs as may be prayed for and that this Hon'ble Court may deem fit on the facts and circumstances of the case.

2. The learned counsel appearing for the petitioner submits that the petitioner society is having total membership of 347, out of whom 312 are traditional manual dredging workers. It is stated that there is no dispute with regard to the tender conditions, which stipulate that the eligibility is to be decided with reference to the society having 90 % traditional manual dredging workers and that the petitioner very much satisfies the said requirement. It is in spite of the proven eligibility, with reference to the relevant records, that the petitioner is virtually made to wait outside. Hence the writ petition.

3. Heard the learned Government Pleader as well, who submits that there is no dispute with regard to the factual position as to the total membership and the number of traditional manual dredging workers (347 and 312 respectively). In so far as there is no dispute with regard to the eligibility requirement, 90 % of the total figure of 347 would come to 312.3. As per the relevant provisions of law, there cannot be any rounding off. As such, the resultant figure 312.3 needs not be rounded, as there may not be any fraction of person/individual. So as to constitute the requisite eligibility 90 % of 347, it has to be reckoned a '312', which

requirement stands satisfied by the petitioner. In the above circumstances, if the ground for non consideration of the tender submitted by the petitioner is solely due to the above reason, the petitioner's tender is liable to be considered, subject to satisfaction of other requirements, if any.

All other contentions are left open.

The writ petition stands disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd