

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 5906 of 2015 (K)

PETITIONER :

**SMT.SWAPANA DIVAKARAN,
PULICKAL HOUSE, NEERKADU PO, AYARKUNNAM VAZHI
KOTTAYAM-686 564.**

**BY ADVS.SRI.L.RAM MOHAN
SRI.M.AUBREY ABRAHAM ISAAC**

RESPONDENT(S) :

- 1. EXAMINATION COMMISSIONER,
PAREEKSHA BHAVAN, POOJAPPURA,
THIRUVANANTHAPURAM-695 001.**
- 2. DISTRICT PSC OFFICER,
DISTRICT PSC OFFICE, MUTTAMBALAM,
KOTTAYAM – 686 004.**
- 3. KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY, PATTOM,
THIRUVANANTHAPURAM-695 004.**

**R1 BY GOVT. PLEADER SRI. K.C. VINCENT
R2 & R3 BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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WP(C).No. 5906 of 2015 (K)

APPENDIX

PETITIONERS' EXHIBITS :

EXT P1 : TRUE COPY OF ORDER NOS.BA5/44988/2013/CGE DATED 25-06-2013.

**EXT P2 : TRUE COPY OF THE COUNTER AFFIDAVIT FILED BY THE PSC IN
WPC.NO.17315/14.**

**EXT P3 : TRUE COPY OF THE RECEIPT DATED 20-02-2015 ISSUED BY THE 1ST
RESPONDENT.**

**EXT P4 : TRUE COPY OF THE NOTIFICATION DATED 27-10-2014 ISSUED BY THE
3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS : NIL

//TRUE COPY//

P.S. TO JUDGE

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P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No. 5906 OF 2015
.....

Dated this the 26th February, 2015

J U D G M E N T

The petitioner has approached this Court with the following prayers:

"i) issue a writ of mandamus or any other appropriate writ, direction or order commanding the 1st respondent to authenticate by attesting the correct date of birth of the petitioner in the SSLC book of the petitioner on the basis of Ext.P1 order;

ii) issue a writ of mandamus or any other appropriate writ, direction or order commanding the 2nd and 3rd respondent not to remove the petitioner from the Rank List of LDC, Kottayam district (Category No.218/2013) in Various Departments as Rank No.140512 for the reason of non production of the SSLC book till an order is passed in the application dated 20.02.2015 by the 1st respondent

3) issue a writ of mandamus or any other appropriate writ,. Direction or order commanding the 1st respondent to pass orders on the application dated 20.12.2015 accepted as (File No.EX/CB5/12410/2015) within a time frame fixed by this Hon'ble Court.

4) Grant such other reliefs as this Hon'ble Court deems fit and proper in the facts and circumstances of the case.

5) Grant the costs of the writ petition."

2. Heard the learned Counsel for the petitioner, the learned Government Pleader for the first respondent/.Examination Commissioner and the learned Standing Counsel for the second and third respondents/PSC. The case of the petitioner is that the date of birth of the petitioner was doubted by the PSC in connection with participation of the petitioner in the selection process and inclusion in the rank list of L.D.Clerks for Various departments, published in the Gazette dated 30.03.2012. Subsequently, the petitioner was deleted from the rank list by an Erratum Notification dated 01.06.2013 issued by the PSC. With reference to the correction in the date of birth in SSLC book, a report from the Secretary, Pareeksha Bhavan was called for by the PSC, which was received in the Vigilance Wing. On the basis of the above report and other evidence stated as collected, the Vigilance and Security Officer had submitted a report on 14.08.2013. Since the said report was not acceptable

Commission ordered another enquiry and as such, it was the stand of the Commission that SSLC book could not be released as disclosed from the counter affidavit dated 31.07.2014, filed in the earlier round of litigation, i.e in W.P.(C) 17315 of 2014. It is however stated that, pursuant to the interim order passed by this Court, the SSLC book has been returned by the PSC and subsequently, the said writ petition was disposed of.

3. The learned Counsel for the petitioner points out that the discrepancy was enquired into in detail from the office of the Controller of Examinations and after referring to all the relevant records, Ext.P1 order was passed, whereby it has been observed that in all the school records, the date of birth of the petitioner has been correctly shown as 16.04.1976 and that the correction was made by the concerned school authorities on a mistaken fact as if the date of birth was 16.04.1974. On coming across the actual position, necessary directions have been given to incorporate in all the relevant records as 16.04.1976 observing that there was absolutely no fault on the part of the petitioner or any of the office staff of the Pareekksha Commission. In the last paragraph of Ext.P1 order, it is stated that, once the SSLC

book is produced before the said authority necessary endorsement to this effect will be made in SSLC book. It was accordingly that the petitioner approached the first respondent by producing the SSLC book in original, after obtaining the same from the PSC, pursuant to the interim order passed by this Court in WP(C)17315 of 2014. But, now the stand taken by the first respondent is that no such endorsement can be effected and that they will issue only duplicate SSLC book, which according to the petitioner is quite arbitrary in all respects.

4. After hearing both the sides, this Court finds that absolutely no insinuation will lie against the petitioner any more in view of the factual position disclosed from Ext.P1 passed by the first respondent/Commissioner of Examination. In the said circumstance, the petitioner is entitled to succeed to have the endorsement effected in the original SSLC book to the requisite extent, with reference to the correction made as to the date of birth. The first respondent is directed to effect necessary endorsement as assured and undertaken, as and when the SSLC book is produced along with a copy of this judgment.

5. With regard to the submission made by the learned

Counsel for the petitioner that in the course of further proceedings, the PSC has already passed an order debarring the petitioner from participating in further process of selection for a period of three years, this Court does not intend to express anything with regard to the merits of the said proceedings as it does not form the subject matter of this writ petition. It is open for the petitioner to challenge the said order by way of appropriate proceedings.

6. The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the first respondent/Examination Commissioner for further steps.

The writ petition is disposed of.

P.R.RAMACHANDRA MENON
JUDGE

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