

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 30TH DAY OF MARCH 2015/9TH CHAITHRA, 1937

WP(C).No. 7484 of 2015 (I)

PETITIONER(S):

1. **M.P. UNNIKRISHNAN NAMBISAN,
S/O.PARVATHI BRAHMANI AMMA, KRIPA, THRIKKUTTISSERI,
VIA. NADUVANNOOR, VAKAYAD P.O.,
KOZHIKODE DISTRICT-673 614.**
2. **P. SREEDHARAN NAMBISAN,
S/O.DEVAKI BRAHMANI AMMA,
SREESADAN, NAMBISAN COLONY,
DOWN HILL P.O., MALAPPURAM, PIN-676 519.**

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

RESPONDENT(S):

1. **STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
DEVASWOM DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
2. **THE COMMISSIONER,
MALABAR DEVASWOM BOARD,
CIVIL STATION, KOZHIKODE-673 001.**
3. **THE DEPUTY COMMISSIONER,
MALABAR DEVASWOM BOARD,
CIVIL STATION, KOZHIKODE-673 001.**

**R1 BY GOVT. PLEADER SRI.K.C. VINCENT.
R2 & R3 BY ADV. SRI.PARTHASARATHY.B, SC.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXT P1 : TRUE COPY OF THE ORDER NO.K.DIS A2-1471/2000 DT. 21.08.2000 OF 3RD RESPONDENT APPOINTING M.P. NARAYANAN NAMBISAN AS FIT PERSON OF M.P.S.NAMBISAN.
- EXT P2 : TRUE COPY OF THE INTERIM ORDER DT. 11.04.2014.
- EXT P3 : TRUE COPY OF THE ORDER DT. 3RD SEPTEMBER 2014.
- EXT P4 : TRUE COPY OF THE ORDER APPROVING THE APPOINTMENT OF HEREDITARY TRUSTEE.
- EXT P5 : TRUE COPY OF THE APPLICATION SUBMITTED BY HEREDITARY TRUSTEE FOR THE APPOINTMENT OF FIT PERSON.
- EXT P5(A) : TRUE COPY OF THE CONSENT LETTER OF FIT PERSON.
- EXT P6 : TRUE COPY OF THE INTERIM ORDER DT. 11.12.2014 IN WP(C).NO.32589/2014 FILED BY THE THANTHRI, SHRI.K.M.C. NARAYANAN NAMBOOTHIRI.
- EXT P7 : TRUE COPY OF THE REPRESENTATION DT. 03.12.2014.
- EXT P7 (A) : TRUE COPY OF THE COMPLAINT DT. 11.11.2014 SUBMITTED BY AYYAPPA SEVA SANGHAM ALONG WITH THE LETTER OF STATE PUBLIC INFORMATION OFFICER.
- EXT P8 : TRUE COPY OF THE ORDER NO.A4-1154/2014/MDB (KPS) DT. 16.01.2015 OF 3RD RESPONDENT.
- EXT P9 : A TRUE COPY OF JUDGMENT IN WP(C).NO.10691/2014 DATED 19/01/2015.
- EXT P10 : A TRUE COPY OF THE SCHEME OF TRIPURANTHAKA DEVASWOM.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

P.R. RAMACHANDRA MENON, J.

.....
W.P.(C)No.7484 of 2015
.....

Dated this the 30th March, 2015

J U D G M E N T

The petitioners have approached this Court with the following prayers:

"1) to issue a writ of certiorari calling for records leading to Exhibit P8 and quash the same to that extent the terms stipulated in it vide clause 2 and 4, being arbitrary, illegal and against the provisions of the Act and Scheme.

2. to declare that the Fit person who is a member of the family, appointed by the Hereditary Trustee cannot be terminated by the authority without notice or following the procedure in Sec.45 of the Act if, there is no cancellation or withdrawal of the request of Hereditary Trustee regarding the appointment of Fit Person.

3. to issue a writ of mandamus or any other writ or order directing 2nd and 3rd respondents to allow 2nd petitioner to continue as fit person until it is revoked by 1st petitioner.

4. to issue a writ of mandamus or any other writ or order directing 3rd respondent to give instruction to the Executive Officer. And

5. to issue any other writ or order as is

deemed fit and proper by this Hon'ble Court in the interest of justice."

2. Heard the learned Counsel for the petitioners and the learned Standing Counsel for the respondent /Devaswom.

3. After considering the pleadings and proceedings forming the subject matter of this writ petition, this Court finds that the petitioners are having an alternate effective remedy by way of appeal, as provided under the statute. In the said circumstance, the petitioners are relegated to move the second respondent /Commissioner by filing appeal. If any such appeal is filed within two weeks from the date of receipt of a copy of this judgment, the same shall be considered and appropriate orders shall be passed , after affording an opportunity of hearing to the petitioners. The writ petition is disposed of. The petitioners shall produce a copy of the judgment along with a copy of the writ petition before the second respondent for further steps.

P.R.RAMACHANDRA MENON
JUDGE

/k