

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 9456 of 2014 (F)

PETITIONER :

**V.UNNIKRISHNAN NAMBOOTHIRI,
MELSANTHI, SREE AZHAKODI DEVI KSHETHRAM,
THURUTHIYAD, KOZHIKODE - 4**

**BY ADVS.SRI.N.MANOJ KUMAR
SMT.JAYASREE MANOJ**

RESPONDENT(S):

- 1. THE MALABAR DEVASWOM BOARD,
REPRESENTED BY ITS COMMISSIONER, HOUSEFED COMPLEX,
IRANHIPALAM P.O., KOZHIKODE - 673 006.**
- 2. THE COMMISSIONER,
MALABAR DEVASWOM BOARD, HOUSEFED COMPLEX,
IRANHIPALAM P.O., KOZHIKODE - 673 006.**
- 3. THE EXECUTIVE OFFICER,
SREE AZHAKODI DEVI KSHETHRAM, THURUTHIYAD,
KOZHIKODE - 673 004**
- 4. C.M.SANKARAN NAMBOOTHIRI,
SANTHI, SREE AZHAKODI DEVI KSHETRAM,
THURUTHIYAD, KOZHIKODE - 673 004.**

**R1 & R2 BY ADV. SRI.KRISHNAKUMAR.S, SC, MALABAR DEVASWOM BOARD
SRI.V.KRISHNA MENON, SC, MALABAR DEVASWOM BOARD
R3 BY ADVS. SRI.K.V.SOHAN
SMT.SREEJA SOHAN.K.
R4 BY ADV. SMT.K.R.DEEPA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 10-02-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF SCHEDULE OF EMPLOYEES OF THE TEMPLE ISSUED BY THE DEVASWOM BOARD.
- EXT.P2: TRUE COPY OF CONSENT LETTER SENT BY THE PETITIONER DATED 5/7/2012.
- EXT.P3: TRUE COPY OF CERTIFICATE DATED 6/12/2012 ISSUED BY PADERI SUNIL NAMBOODIRIPAD.
- EXT.P4: TRUE COPY OF REPRESENTATION DATED 29/12/2012 SUBMITTED BY PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P5: TRUE COPY OF REPRESENTATION DATED 3/10/2013 SUBMITTED BY PETITIONER BEFORE THE 2ND RESPONDENT.
- EXT.P6: TRUE COPY OF JUDGMENT IN WPC NO.26990/2013 DATED 5/12/2013.
- EXT.P7: TRUE COPY OF ORDER NO.A.P.H.2.5802/2013 DATED 14/2/2014 OF 2ND RESPONDENT.
- EXT.P8: TRUE COPY OF REVIEW PETITION ALONG WITH ENDORSEMENT DATED 26/3/2014
- EXT.P9: TRUE COPY OF THE LETTER DATED 24/09/2012
- EXT.P10. TRUE COPY OF THE LETTER DATED 07/03/2013
- EXT.P11. TRUE COPY OF THE ORDER NO.A1/1392/10/MDB DATED 20/04/2010 OF THE ASSISTANT COMMISSIONER, MALABAR DEVASWOM BOARD.
- EXT.P12 TRUE COPY OF THE CERTIFICATE DATED 12/06/2010 ISSUED BY THE MALABAR DEVASWOM BOARD

RESPONDENT(S)' EXHIBITS

- EXT.R3(A) COPY OF THE DECISION TAKEN BY THE TRUSTEE BOARD IN ITS MEETING DATED 07/11/2014
- EXT.R4(A) COPY OF THE REPRESENTATION DATED 07/09/2011 SUBMITTED BY THE 4TH RESPONDENT BEFORE THE EXECUTIVE OFFICER OF AZHAKODI TEMPLE.

/TRUE COPY/

P.A.TO.JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C) No.9456 of 2014

Dated this the 10th day of February, 2015

JUDGMENT

There is a rival claim for appointment as Melsanthi in the Sree Azhakodi Devi Temple, Thuruthiyad in Kozhikode District. The claimants are the petitioner and the fourth respondent. This Court by Ext.P6 judgment directed the Commissioner, Malabar Devaswom Board to take a decision. The Commissioner, Malabar Devaswom Board is of the view that he has already taken a decision on 14.2.2014 and therefore, he cannot exercise the power of review. The Commissioner by order dated 14.2.2014 produced as Ext.P7 took the decision that he cannot take a decision whether the petitioner and the fourth respondent are eligible to be appointed as Melsanthi. It is directed that the Executive Officer shall take appropriate decision after inviting the

application. The petitioner's case is that he being the senior most Keezhsanthi, he is entitled to be appointed as a Melsanthi. It is submitted that in view of the clear direction of this Court in Ext.P6, the Commissioner ought to have taken a decision whether the petitioner or the fourth respondent are eligible to be appointed as Melsanthi.

2. On the other hand, the learned counsel appearing for the Trustee Board submits that in view of the rival claim between the parties, they have taken a decision to entrust the duties of the Melsanthi with effect from 1.1.2006 onwards to be carried out by the petitioner and the fourth respondent by alternative month and this arrangement will continue till a decision is taken in the matter by the High Court.

3. The stand of the Trustee Board is that the petitioner as well as the fourth respondent can make a claim for appointment when they invited application for appointment as

Melsanthi and they will be considered in accordance with the eligibility for appointment as Melsanthi. It is submitted that as a matter of right the petitioner cannot claim the appointment to the post of Melsanthi.

4. On the other hand, the learned counsel appearing for the fourth respondent submits that the fourth respondent is entitled to be appointed as Melsanthi as he being the senior most Keezhsanthi.

I am of the view that whether an appointment has to be made among the petitioner and the fourth respondent based on their claim for promotion or others or by inviting a fresh notification has to be decided by the Commissioner after hearing the petitioner, the fourth respondent and the Trustee Board. The petitioner claims that he can establish his claim for promotion before the Commissioner. The question has to be decided after adverting the rival claims of the parties for

promotion. The Commissioner shall also advert to the relevant materials placed by the parties to consider whether the appointment has to be among the Keezsanthi of the temples or by issuing fresh notification. It is obvious the Commissioner was unable to decide the claim of the promotion for want of records. In view of the above, Ext.P7 shall be reconsidered. The appropriate decision shall be taken in this matter within a period of four weeks. Till such decision is taken by the Commissioner, the petitioner shall be permitted to continue.

The writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE, JUDGE

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