

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 22ND DAY OF JANUARY 2015/2ND MAGHA, 1936

WP(C).No. 15598 of 2014 (Y)

PETITIONER(S):

**HARIKRISHNAN NAMBOODIRI, AGED 45,
S/O. ARYAN NAMBOODIRI, KORATTIKKARA MANA, PARALI P.O.,
PALAKKAD - 678 612.**

**BY ADVS.SRI.P.B.KRISHNAN
SRI.P.M.NEELAKANDAN
SRI.P.B.SUBRAMANYAN
SRI.SABU GEORGE**

RESPONDENT(S):

- 1. THE COMMISSIONER, MALABAR DEVASWOM BOARD,
MALABAR DEVASWOM BOARD, KOZHIKODE - 673 006.**
- 2. THE EXECUTIVE OFFICER,
SREE MANAPPULLY BHAGAVATHYU DEVASWOM,
KIZHAKKEYAKARA,PALAKKAD - 678 013.**
- 3. SAJITH E.S.,
EARKKARA MANA, PIDAVANNUR P.O., MALAPPURAM - 679 574.**

*** ADDITIONAL R4 IMPLEADED**

- 4. A.R.NARAYANAN, AGED 40 YEARS,
S/O.A.M.RAMACHANDRAN EMBRANTHIRI, ANILKKAD MANA,
KARINGARAPULLY P.O., PALAKKAD.**

*** ADDL. R4 IS IMPLEADED AS PER ORDER DATED 10/07/2014 IN IA 8850/2014.**

R1 BY ADV. SRI.PARTHASARATHY B., SC

**R2 BY ADVS. SRI.V.V.SURENDRAN
SRI.P.A.HARISH**

**R3 BY ADVS. SRI.T.P.RAMACHANDRAN (THACHETH)
SMT.N.G.SINDHU**

**R4 BY ADVS. SRI.K.MOHANAKANNAN
SMT.A.R.PRAVITHA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
22-01-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1: TRUE COPY OF THE NOTIFICATION PUBLISHED IN THE MATHRUBHUMI DAILY DATED 12-09-2012 .

EXHIBIT P2: TRUE COPY OF THE ORDER PASSED BY THE RESPONDENT NO 1 DATED 20-11-2012.

EXHIBIT P3: TRUE COPY OF THE COMMUNICATION NO S1.60/2/SMBD/2012 ISSUED BY THE MANAPULLY BHAGAVATHY DEVASWOM DATED 30-11-2012.

EXHIBIT P4: TRUE COPY OF THE NOTIFICATION NO S-1/60(3)/2012 PUBLISHED IN THE MATHRUBHUMI DAILY DATED 11-02-2013.

EXHIBIT P5: TRUE COPY OF THE COMMUNICATION DIRECTING THE PETITIONER TO APPEAR FOR INTERVIEW DATED 21-04-2014.

EXHIBIT P6: TRUE COPY OF THE APPOINTMENT ORDER ISSUED APPOINTING THE PETITIONER AS MELSANTHI DATED 08-05-2014.

EXHIBIT P7: TRUE COPY OF THE PETITION FILED BY THE RESPONDENT NO 3 NOTICE OF HEARING BEARING NO J5-968/2014/M.D.B ISSUED TO THE PETITIONER DATED 07-05-2014.

EXHIBIT P8: TRUE COY OF THE ORDER OF THE IST RESPONDENT IN MP 2/14 DATED 21-05-2014.

RESPONDENT(S)' EXHIBITS:

EXT.R3(a): TRUE COPY OF THE MARK LIST DATED 5.5.2014.

EXT.R3(b): TRUE COPY OF THE DECISION OF INTERVIEW BOARD MEETING DATED 5.5.2014.

EXT.R4(a): TRUE COPY OF THE EXPERIENCE CERTIFICATE DATED 5.1.2007 ISSUED BY THE THANTRI WITH TRANSLATION.

EXT.R4(b): TRUE COPY OF THE EXPERIENCE CERTIFICATE ISSUED BY THE PRESIDENT OF MOOLAGANAPATHI SANEESWARAN TEMPLE WITH TRANSLATION.

EXT.R4(c): TRUE COPY OF THE JUDGMENT IN WP(C) NO.22880/2012 DATED 10.6.2014.

//TRUE COPY//

P.S.TO JUDGE

A.MUHAMED MUSTAQUE, J.

W.P.(C)No.15598 of 2014

Dated this the 22nd day of January, 2015

JUDGMENT

This writ petition is filed against an order passed by the Commissioner of the Malabar Devaswom Board in a proceedings under Section 20 of the Madras Hindu Religious and Charitable Endowment Act, 1951.

2. The dispute pertains to the appointment of Melsanthi in the Mannapullikavu Bhaghavathy Temple, Palakkad. The writ petitioner has been appointed as Melsanthi pursuant to the notification dated Ext.P1. The period of appointment is one year. The appointment was challenged by the third respondent before the Commissioner. The Commissioner set aside the appointment of the petitioner as per order dated 21.5.2014. The Commissioner took the view that the procedure of taking lot before the deity

is ideal for selecting Melsanthi. It is found that the proceedings of the interview Board selecting the petitioner as Melsanthi is liable to be set aside. Essentially, the issue before the Commissioner was about the procedure to be followed for selection. Admittedly, the period of the appointment is over and the petitioner is continuing in the office based on the interim order passed by this Court. I do not find any reason to interfere with the order passed at this stage. Therefore, all issues are left open. The Board is free to invite fresh application for this year in accordance with the established procedure or based on the directions of the Commissioner.

3. However, the learned counsel for the petitioner submits that the petitioner is holding the office by virtue of the interim order passed by this Court. Therefore, the petitioner shall be considered for the next year's appointment

as Melsanthi. No doubt, any period during which the petitioner worked based on the order passed by this Court and also based on the direction made by the board as an interim arrangement shall be excluded for considering him for appointment as Melsanthi, as in the eye of law, there is no regular appointment to the above post. This appointment was only in provisional nature to discharge the duties as Melsanthi. It is open for the Board to consider the petitioner's eligibility based on the above observation while considering his eligibility along with other factors. In view of the fact that the period is over and the petitioner may be permitted to continue till new Melsanthi is appointed in accordance with law.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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