

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE C.K.ABDUL REHIM

FRIDAY, THE 10TH DAY OF APRIL 2015/20TH CHAITHRA, 1937

WP(C).No. 28826 of 2009 (W)

PETITIONER:

**K.MARIYAKUTTY,
W/O. ASHRAF, AGED 40 YEARS,
PART TIME SWEEPER,
NAGALASSERI GRAMA PANCHAYATH, KOOTTANAD P.O, PALAKKAD DT.
RESIDING AT KALLEKKATTIL HOUSE, THEKKE VAVANNOOR, POST
VIA KOOTTANAD, PALAKKAD DISTRICT.**

**BY ADVS.SRI.T.C.GOVINDA SWAMY
SRI.G.SHYAM RAJ**

RESPONDENTS:

- 1. NAGALASSERI GRAMA PANCHAYATH,
KOOTTANAD P.O, PALAKKAD DT,
THROUGH ITS SECRETARY.
PIN - 679533.**
- 2. THE DEPUTY DIRECTOR OF PANCHAYAT,
CIVIL STATION, PALAKKAD, PALAKKAD DT-678 001.**
- 3. THE STATE OF KERALA,
REPRESENTATED BY THE CHIEF SECRETARY TO THE GOVERNMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695001.**

**R1 BY ADVS. SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.S.A.ANAND
SRI.PETER JOSE CHRISTO
SRI.RAMESH. C.R.**

R2 & R3 BY GOVT. PLEADER SRI. P.V. ELIAS.

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-04-2015,
ALONG WITH WPC. 29996/2009, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

AMG

APPENDIX

PETITIONERS' EXHIBITS

- EXT- P1- TRUE COPY OF THE IDENTITY CARD DATED 20-11-2000, ISSUED BY THE EMPLOYMENT OFFICER, EMPLOYMENT EXCHANGE, SHORANUR.
- EXT- P2- TRUE COPY OF THE CERTIFICATE ISSUED BY THE PRESIDENT OF THE RESPONDENT PANCHAYAT DATED 25-09-2009.
- EXT- P3- TRUE COPY OF THE XTH STD, EQUIVALENCY "A" LEVEL EXAMINATION CERTIFICATE DATED 05-12-2008, ISSUED BY THE SECRETARY, BOARD OF PUBLIC EXAMINATIONS, KERALA.
- EXT- P4- TRUE COPY OF THE REPRESENTATION DATED 26-09-2009.
- EXT- P5- TRUE COPY OF THE TRUE COPY OF THE LETTER BEARING No.A4-69/2002 DATED 01-10-2009 ISSUED BY THE RESPONDENT PANCHAYAT.
- EXT- P6- TRUE COPY OF THE JUDGMENT IN OP No.3038/97 DATED 24-02-1997 RENDERED BY THIS HON'BLE COURT.
- EXT- P7- TRUE COPY OF THE JUDGMENT IN OP No.474/97 DATED 13-01-1997 RENDERED BY THIS HON'BLE COURT.
- EXT- P8- TRUE COPY OF THE JUDGMENT IN OP No.23551/98 DATED 09-07-1999 RENDERED BY THIS HON'BLE COURT.
- EXT- P9- TRUE COPY OF THE JUDGMENT IN WPC No.12676/05 DATED 15-04-2005 RENDERED BY THIS HON'BLE COURT.
- EXT- P10- TRUE COPY OF THE GOVERNMENT ORDER BEARING No.6438/H2/06/LSD DATED 06-05-2006.
- EXT- P11- TRUE COPY OF THE GO (P) No.501/2005/FIN DATED 25-01-2005.
- EXT- P12- TRUE COPY OF THE DECISION BEARING No.5/16 DATED 13-05-2010.
- EXT- P13- TRUE COPY OF THE LETTER BEARING No.A4-5078/2010 DATED 29-05-2010 ISSUED BY THE RESPONDENT PANCHAYAT.

RESPONDENTS' EXHIBITS

NIL

True copy

P.A. To Judge

AMG

C.K. ABDUL REHIM, J.

W.P.(c) Nos. 28826 & 29996 OF 2009

DATED THIS THE 10th DAY OF APRIL, 2015.

J U D G M E N T

The petitioners in both these cases are Part-Time Sweepers working at Nagalasseri Grama Panchayat, appointed as casual employees. Claim of the petitioners is for regularisation in the service as Part-Time Sweepers, taking note of their lengthy service as casual labourers. They are approaching this court challenging the action of the Grama Panchayat in making fresh recruitments out of candidates sponsored by the Employment Exchange, without affording them an opportunity to apply for the post and to participate in the selection process. It is contended that, eventhough they have registration with the Employment Exchange, their names were not sponsored and forwarded for selection. Despite various representations submitted by the petitioners, they were not included in the selection process and considered for appointment on a permanent basis, is the grievance.

2. Contention is that, persons like the petitioners have also a right to be considered for such public

employment, along with the candidates sponsored by the Employment Exchange. In this regard reliance was placed on the decisions of hon'ble Supreme Court in **State of Haryana V. Piara Singh (AIR 1992 SC 2130), Kishore K. Pati V. District Inspector of School, Midnapore and others (2000) 9 SCC 405, & Excise Superintendent, Malkapatnam V. K.B.N Visweswara Rao and others (1996) 6 SCC 216**. Various judgments rendered by this court following dictum contained in the decisions of the hon'ble Supreme Court was also placed for perusal.

3. Relief sought for is basically to direct consideration of the candidature of the petitioners, along with candidates sponsored by the Employment Exchange for selection and appointment to the post of Part Time Sweeper/Contingent Worker under the respondent panchayat. It is submitted that vacancy in the post of Part Time Sweeper still exists in the respondent panchayat and therefore the relief need to be granted. The hon'ble apex court noticed that many candidates were unable to have

their names sponsored through the Employment Exchanges despite their registration. Therefore the choice of selection is restricted only to those candidates whose names were sponsored by the Employment Exchanges. Hence it is observed that many deserving candidates were deprived of the right to be considered for selection for appointment to posts under the State. Therefore it was opined that it should be mandatory for the establishment to intimate the employment exchanges for sponsoring names of the candidates and in addition the establishments should call for the names by publication in newspapers having wider circulation and also by displaying the notification in the offices concerned.

4. Going by dictum contained in the decisions of the hon'ble Supreme Court cited supra, as well as various judgments rendered by this court, it is only just and proper to grant an identical relief to the petitioners in these writ petitions for consideration of their names for selection in the matter of appointment with respect to the unfilled/available vacancies in the post of Part-Time

Sweeper/ Contingent Worker in the respondent panchayat, subject to condition of their fulfillment of the prescribed eligibility conditions and qualifications for such post.

5. Hence these writ petitions are disposed of by directing the respondents to intimate the petitioners with respect to the occurring of any regular vacancy which is sought to be filled up from the list of candidates sponsored by the Employment Exchanges. The petitioners shall be afforded with an opportunity for participation in the selection process in such case, subject to fulfillment of the prescribed eligibility conditions and qualifications to hold the post. The respondent panchayat is directed to consider candidature of the petitioners in such cases for selection to the post, along with candidates who were sponsored by the Employment Exchanges, notwithstanding the order if any already issued declining request of the petitioners for such consideration.

Sd/-

C.K. ABDUL REHIM
JUDGE

AMG

True copy
P.A. to Judge