

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 13TH DAY OF OCTOBER 2015/21ST ASWINA, 1937

WP(C).No. 26731 of 2015 (N)

PETITIONER(S):

**C.V.INASU @ BABY,
CHALISSERY HOUSE, CHELAKKARA P.O.,
THRISSUR DISTRICT, PIN: 680 586.**

**BY ADVS.SRI.A.A.ZIYAD RAHMAN
SRI.LAL K.JOSEPH
SRI.JOSEPH KURIAN VALLAMATTAM**

RESPONDENT(S):

- 1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY TO GOVERNMENT,
HEALTH AND FAMILY WELFARE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.**
- 2. KERALA STATE PHARMACY COUNCIL,
M.N.G.V ADIYODI MEMORIAL PHARMACY BHAVAN,
P.H.LAB CAMPUS, THIRUVANANTHAPURAM, PIN: 695 035.**
- 3. THE RETURNING OFFICER,
KERALA STATE PHARMACY COUNCIL M.N.G.V.,
ADIYODI MEMORIAL CAMPUS,
THIRUVANANTHAPURAM, PIN: 695 035.**
- 4. THE DEPUTY SECRETARY,
HEALTH AND FAMILY WELFARE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695 001.**

**R1 & R4 BY GOVERNMENT PLEADER SMT.C.K.SHERIN
R2 & R3 BY ADV. SRI.P.B.SAHASRANAMAN, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1: TRUE COPY OF THE NOTIFICATION BEARING NO.E-3/2013/KPC DATED 15/3/2013, WHICH WAS PUBLISHED IN THE OFFICIAL GAZETTE IN 24/4/2013.
- P2: TRUE COPY OF THE LIST OF CANDIDATES, NOTIFIED BY THE 3RD RESPONDENT IN THE OFFICIAL GAZETTE ON 7/5/2013.
- P3: TRUE COPY OF THE COMPLAINT DATED 2/5/2013.
- P4: TRUE COPY OF THE REPLY BEARING NO.19554/F1/13/H&FWD DATED 14/5/2013.
- P5: TRUE COPY OF ONE OF SUCH NOTICE.
- P6: TRUE COPY OF THE ANOTHER COMPLAINT DATED 15/6/2013.
- P7: TRUE COPY OF THE POSTAL COVER RECEIVED BY OF CHITRA JANARDHANAN.
- P7(A): TRUE COPY OF THE POSTAL COVER RECEIVED BY OF CHITRA JANARDHANAN.
- P8: TRUE COPY OF POSTAL COVER RECEIVED BY REJI K.G.
- P8(A): TRUE COPY OF POSTAL COVER RECEIVED BY REJI K.G.
- P9: TRUE COPY OF THE COVER RECEIVED WHICH CONTAIN SPACE FOR NAME AND SERIAL NUMBER OF VOTER NO.20056.
- P9(A): TRUE COPY OF THE COVER RECEIVED WHICH CONTAIN SPACE FOR NAME AND SERIAL NUMBER OF VOTER NO.6379.
- P10: TRUE COPY OF THE INTERIM ORDER DATED 19/7/2013 IN WPC NO.18079/13.
- P11: TRUE COPY OF THE COMPLAINT DATED 27/7/2013.
- P12: TRUE COPY OF THE AFORESAID ORDER BEARING NO.3599/F1/13/H&FWD DATED 23/8/2013.
- P13: TRUE COPY OF THE POSTAL RECEIPT DATED 27/7/2013.
- P14: TRUE COPY POSTAL ACKNOWLEDGEMENT DATED 29/7/2013.
- P15: TRUE COPY OF THE SAID JUDGMENT DATED 29/1/2015 IN WPC NO.30278/2013.
- P16: TRUE COPY OF THE REPORT IS FILED BY THE 4TH RESPONDENT.
- P17: TRUE COPY OF THE ORDER BEARING GO (RT) NO.2109/2015/H&FWD DATED 7/7/2015

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P(C).No. 26731 of 2015

Dated this the 13th October, 2015

JUDGMENT

The short issue raised in this Writ Petition is relating to the election held on 23.7.2013 for electing the Members of the Kerala State Pharmacy Council. The petitioner was a candidate in the election. The petitioner had approached this Court in W.P(C).No.30278 of 2013 challenging the election procedure and for a direction to the Government to conduct enquiry into the election held on 23.7.2013. This Court directed the Government to consider the matter and the Government considered the matter as per Exhibit P17, which reads as under:

“5) Government have examined the matter in detail. The main prayer in the Exhibit P11 is to conduct an enquiry as contemplated under Rule 8 of the Kerala State Pharmacy Council Rules 2012 on the election held on 23.7.2013. On going through the records it is evident that the Returning Officer has not received any complaint regarding the conduct of election within the stipulated time limit and the same

has been reported by him. Hence there is no scope for conducting enquiry as per Rule 8 of Kerala state Pharmacy Council Rules, 2012.

6) In the circumstances, the prayer of othe appellant to consider Exhibit P11 in the WP(C) is rejected. The direction contained in the judgment read above is complied with accordingly."

2. Essentially the Government rejected the petitioner's complaint for the reason that no complaint was made regarding the election within the stipulated time with the Returning Officer. Admittedly, the stipulated time for raising objection was 30.7.2013. The petitioner contends that Exhibit P11 is the complaint submitted before the Returning Officer. This is dated 27.7.2013. The petitioner has also produced the postal receipt of sending the complaint. Exhibit P13 is the postal receipt. Exhibit P14 is the acknowledgment card dated 29.7.2013. Therefore, the petitioner submits that the objection was raised within the time as contemplated in the election notification.

3. In the above facts and circumstances, this Court is of the view that as far as the petitioner is concerned, the

petitioner was only required to raise objection within the time. The petitioner has complied with that requirement. Whether the complaint has been considered by the Returning Officer within ten days or not is immaterial to consider the objection of the petitioner by the Government. The Government ought to have found that the petitioner has filed the objection within the time.

Therefore, the order impugned is set aside. The Government is directed to reconsider the matter in the light of Exhibit P11, which has been received by the Returning Officer within time. The Government shall conduct an enquiry into the averments contained in Exhibit P11 and pass orders after hearing all the persons, including the petitioner, within three months from the date of receipt of a copy of this judgment.

The Writ Petition is disposed of as above.

**A.MUHAMED MUSTAQUE
JUDGE**