

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 20TH DAY OF MARCH 2015/29TH PHALGUNA, 1936

WP(C).No. 27305 of 2014 (R)

PETITIONER(S) :

THE THAMARASSERY BAR ASSOCIATION
THAMARASSERY KOZHIKODE DISTRICT, 673573
REPRESENTED BY ITS PRESIDENT SRI.P.C.NAJEEB.

BY ADV. SRI.K.A.SALIL NARAYANAN

RESPONDENT(S) :

1. STATE OF KERALA
REPRESENTED BY SECRETARY TO GOVERNMENT,
HOME(C) DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, 695001.

2. SECRETARY TO GOVERNMENT
FINANCE DEPARTMENT, GOVERNMENT SECRETARIATE
THIRUVANANTHAPURAM, 695001.

3. THE REGISTRAR (SUBORDINATE JUDICIARY)
HIGH COURT OF KERALA, KOCHI, 682031.

R3 BY ADV. SRI.BABU PAUL

R1 & 2 BY GOVERNMENT PLEADER SR. G.P. P.I. DAVIS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 20-03-2015 ALONG WITH W.P.C. NO. 29349 OF
2014 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 27305 of 2014 (R)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT-P1: COPY OF THE COMMUNICATION FROM
THE 3RD RESPONDENT TO THE 1ST RESPONDENT
DATED 19 OCTOBER 2009.

EXHIBIT-P2: TRUE COPY OF GO (RT)
NO.271/2012/HOME DATED 30 JANUARY 2012.

EXHIBIT-P3: COPY OF COMMUNICATION NO.D3(A)-
44471/2000/D7 DATED 8TH MARCH 2012 FROM THE
3RD RESPONDENT TO THE 1ST RESPONDENT.

EXHIBIT-P4: G.O.(MS) 281/2013/HOME DATED
12TH NOVEMBER 2013.

EXHIBIT-P5: TRUE COPY OF THE LETTER FROM
THE PETITIONER TO THE 1ST RESPONDENT.

EXHIBIT-P6: TRUE COPY OF THE LETTER FROM
THE PETITIONER TO THE 2ND AND 3RD
RESPONDENT.

EXHIBIT-P7: TRUE COPY OF THE COMMUNICATION
FROM THE 3RD RESPONDENT TO THE 1ST
RESPONDENT DATED 11 FEBRUARY 2014.

EXHIBIT-P8: LETTER FROM THE PETITIONER TO
THE 1ST RESPONDENT DATED 16 JULY 2014.

EXHIBIT-P9: ACKNOWLEDGEMENT EVIDENCING
RECEIPT OF P8.

ASHOK BHUSHAN , Ag. CJ,
&
A.M.SHAFFIQUE, J.

.....
W.P.C. No. 27305 of 2014

&

W.P.C. No.29349 of 2014
.....

Dated this the 20th day of March, 2015.

JUDGMENT

Ashok Bhushan, Ag.CJ.

These two Writ Petitions had been filed seeking same relief. It is useful to refer the reliefs in Writ Petition No. 29349/2014 which are to the following effect: -

- “i. Issue a writ in the nature of mandamus, order or direction compelling the first respondent to forthwith sanction the additional posts required for the functioning of the Munsiff-Magistrate Court at Thamarassery so as to enable the Court to commence functioning forthwith.*
- ii) Issue a writ, order or direction to the first and second respondents so as to forthwith take all steps required to*

commence the functioning of the Munsiff-Magistrate Court at Thamarassery.

- iii) Issue a writ in the nature of mandamus, order or direction compelling the respondents 1 and 2 to explore the possibility of transferring one of the four Munsiff Courts at Kozhikode with its staff to Thamarassery.*
- iv) Issue such other writ, order or direction which is Hon'ble Court may deem fit and proper to grant in the facts and circumstances of the case”.*

2. A statement has been filed by the first respondent wherein it has been stated that the Government accorded sanction for the conversion of Judicial First Class Magistrate Court -II, Thamarassery to Munsiff-Magistrate Court, Thamarassery, subject to condition that no additional posts will be created and the existing staff in Judicial First Class Magistrate Court shall be utilized or staff from other Courts shall be deployed, if necessary. The proposal sent by the High Court for sanction of Addl. posts were considered by the Government and by order dated 12-11-2013, 8 further additional posts were created. Reference has been

made in paragraph 4 of the said statement. Another proposal dated 11-2-2014 is stated to have been forwarded to the Government for creation of 19 posts stating that there is no scope for redeployment and the Government deferred its consideration till 31-3-2015.

3. The Government having already made a statement that the consideration of the proposal dated 11-2-2014 have been deferred till 31-3-2015, we see no reason to issue any direction at this stage. Both the Writ Petitions are closed with the observation that, it shall be open for the Government to consider the request for additional sanction of the post, after 31-3-2015. With the above observation these Writ Petitions are closed.

Learned counsel for the petitioner made a suggestion that one court can be shifted. He further submitted that the said issue is pending consideration at the administrative side of this Court. The question, whether a particular court is to be shifted, at first has to

be decided by the administrative side of this Court and thereafter appropriate proposal, if found fit, may be sent to the State Government.

Sd/- ASHOK BHUSHAN ,
Ag. CHIEF JUSTICE

Sd/-A.M.SHAFFIQUE,
JUDGE

ani/

/truecopy/

P.S.toJudge