

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 17TH DAY OF DECEMBER 2015/26TH AGRAHAYANA, 1937

WP(C).No. 29513 of 2015 (L)

PETITIONER(S) :

BIJU.P.T., AGED 40 YEARS,
S/O.THANKAPPAN P.V., PARAPPAYIL HOUSE, VIDAKKUZHA,
THAIKKATTUKARA P.O., ALUVA-683 106, ERNAKULAM.

BY ADVS.SRI.T.B.HOOD
SMT.M.ISHA

RESPONDENT(S) :

1. COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY,
COCHIN UNIVERSITY P.O., KOCHI-682 022,
REPRESENTED BY ITS REGISTRAR.
2. THE VICE CHANCELLOR,
COCHIN UNIVERSITY OF SCIENCE AND TECHNOLOGY,
COCHIN UNIVERSITY P.O., KOCHI-682 022.
3. SELECTION COMMITTEE FOR RECRUITMENT TO THE POST OF
SWEEPER-CUM-CLEANER, REPRESENTED BY ITS SECRETARY-
THE REGISTRAR, COCHIN UNIVERSITY OF SCIENCE AND
TECHNOLOGY, COCHIN UNIVERSITY P.O., KOCHI-6820 22.
4. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY TO GOVERNMENT,
HIGHER EDUCATION (B) DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.

* ADDITIONAL R5 IMPEADED

5. KITCO LTD., TC 4/1687-42, BELHAVEN GARDENS,
KOWDIAR P.O., THIRUVANANTHAPURAM,
REPRESENTED BY ITS MANAGING DIRECTOR.

* ADDITIONAL R5 IS IMPEADED AS PER ORDER DATED 04.11.2015 IN
I.A.NO.15941 OF 2015.

R1 TO R3 BY ADV. SRI.MILLU DANDAPANI, S.C, COCHIN UNIVERSITY
R5 BY GOVERNMENT PLEADER SRI.A.LOWSY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 17-12-2015, ALONG WITH W.P.(C).NO.37702 OF 2015, THE COURT
ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXHIBIT P1: TRUE COPY OF THE NOTIFICATION DATED 30.12.2008 ISSUED BY THE 1ST RESPONDENT UNIVERSITY.

EXHIBIT P2: TRUE COPY OF THE RELEVANT PAGES OF THE SHORTLIST PUBLISHED BY THE UNIVERSITY ON 11.02.2011 FOR SELECTION TO THE POST OF SWEEPER-CUM-CLEANER.

EXHIBIT P3: TRUE COPY OF THE GOVERNMENT LETTER DATED 28.10.2011 SENT TO THE VICE CHANCELLOR OF THE UNIVERSITY.

EXHIBIT P4: TRUE COPY OF THE JUDGMENT DATED 24.10.2014 OF THIS HON'BLE COURT IN WRIT PETITION (CIVIL) NO.29072/2011 AND CONNECTED CASES.

EXHIBIT P5: TRUE COPY OF THE MEMO DATED 21.11.2014 ISSUED TO THE PETITIONER DIRECTING HIM TO APPEAR FOR INTERVIEW AND SKILL TEST.

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

PA.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J.

W.P.(C) Nos. 29513 & 37702 of 2015

Dated this the 17th day of December, 2015

J U D G M E N T

The petitioners in both the above writ petitions are applicants to the permanent post of Sweepers in the respondent University. The selection was notified by Ext.P1 in W.P.(C) No.37702/2015. The essential requirement was the ability to read and write and preferably persons having prior experience. The notification did not provide for the exact manner in which the selection would be conducted. However, it is clear that the persons who applied were called for written test and on the basis of the marks obtained in the written test they were short listed, as is seen in Ext.P2. All the petitioners are persons who have figured in Ext.P2 list.

2. While the process was on, there was an attempt by the Government to interfere with the selection, which is produced at Ext.P3. Suffice it to notice that this Court in Ext.P4 judgment found that the Government has no such power. It was also specifically directed that the selection proceedings, started in the year 2008, would be expedited. The present challenge has arisen since the respondent University has engaged KITCO for conducting a skill test.

3. The learned Counsel for the petitioners contend that the Cochin University First Statutes, 1981 by Statute 6 in Chapter III, provides for constitution of a selection board consisting of the Vice-Chancellor as Chairman and two Syndicate Members with the Registrar as its Secretary. It is the contention that the board so constituted specifically has the power to make selections and the same cannot be delegated to any

external body. This Court is of the opinion that the said question need not be gone into in the facts and circumstances arising in this case.

4. The further contention raised by the petitioners is that the conduct of a skill test, especially for recruitment to the post of Sweeper, would only bring in arbitrariness and would lead to persons being deliberately excluded. This Court is inclined to accept the said contention since there could be no special skill achieved, in the work of sweeping and there could be no assessment of such a skill.

5. This Court is unable to discern any method by which the skill in sweeping could be assessed and marks assigned for the same. When a written test and interview is prescribed; which would essentially assess the candidate's ability to read and write, there would be no further requirement for an assessment of the skill,

especially in an activity like sweeping.

6. The learned Standing Counsel appearing for the respondent University would contend that it was only to ensure transparency that the skill test was assigned to the KITCO, after inviting tender for the said process. It is also submitted that as of now the University intends to assign 50% marks to the written test, 20% to the interview and 30% to the skill test. Further contention is that the skill test is to assess the candidates knowledge about the modern electronic cleaning equipments. This Court is of the opinion that the skill test would be not necessary, especially looking at the nature of the job to which the recruitment is made and even use of electronic equipments for cleaning would not require any expertise.

7. In such circumstance, the written test would be assigned 80 marks and whatever marks obtained by

the various candidates can be converted to be out of 80 and the interview could be assigned 20 marks also, so as to comply with the condition, of an interview not going beyond 20% of the totally assigned marks for the recruitment.

8. The select list at Ext.P2, hence, shall be sustained, but, however, the requirement for skill test is set aside. The respondent University shall proceed with the interview and on the basis of the total marks obtained in the written test and interview, on a ratio of 80:20, make selections for the post. The whole process will be completed within a period of three months from the date of receipt of the certified copy of this judgment.

The writ petitions are disposed of in limine.

Sd/-
K.VINOD CHANDRAN,
JUDGE