

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&**

THE HONOURABLE MRS. JUSTICE ANU SIVARAMAN

FRIDAY, THE 16TH DAY OF OCTOBER 2015/24TH ASWINA, 1937

WP(C).No. 31259 of 2015 (F)

PETITIONER:

**B.V. GANESAN, AGED 49 YEARS,
S/O.VENKITA RAMANA THANTHRI, NEDUMPILLI,
PAVANKULANGARA, THRIPIUNITHURA P.O.,
ERNAKULAM DISTRICT.**

**BY ADVS.SRI.M.P.SREEKRISHNAN,
SMT.M.H.BINDU.**

RESPONDENTS:

- 1. THE TRAVANCORE DEVASWOM BOARD,
REP BY ITS SECRETARY, NANDANCODE,
THIRUVANANTHAPURAM -695 001.**
- 2. THE COMMISSIONER TRAVANCORE DEVASWOM BOARD,
OFFICE OF THE DEVASWOM COMMISSIONER,
THIRUVANANTHAPURAM- 695 001.**
- 3. THE STATE OF KERALA,
REPRESENTED BY THE CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**

**R1 & R2 BY ADV. SRI.KRISHNA MENON, SC.
R3 BY GOVT. PLEADER SRI.A. RENJITH.**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 16-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1:- A TRUE COPY OF THE CERTIFICATE DTD. 07/08/2015.
- P2:- A TRUE COPY OF THE CERTIFICATE ISSUED BY THE THANTHRI OF POORNATHREYEESA TEMPLE DTD. 06/08/2015.
- P3:- A LIST OF TEMPLES ISSUED BY THE ASSISTANT COMMISSIONER CHOTTANIKKARA DEVASWOM.
- P4:- A TRUE COPY OF THE NOTIFICATION DTD. 28/07/2015
- P5:- A TRUE COPY OF APPLICATION DTD. 08/08/2015
- P6:- A TRUE COPY OF THE CERTIFICATE ISSUED BY THE VILLAGE OFFICER, NADAMA DTD. 07/08/2015.
- P7:- A TRUE COPY OF SELECT LIST OF SHABARAIMALA DEVASWOM.
- P8:- A TRUE COPY OF THE CERTIFICATE DTD. 26/09/2015.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

**THOTTATHIL B.RADHAKRISHNAN &
ANU SIVARAMAN, JJ.**

W.P.(C) No.31259 of 2015

Dated this the 16th day of October 2015

JUDGMENT

Thottathil B.Radhakrishnan, J.

1.The Petitioner is presently working as the Melsanthi in the Ernakulam Shiva Temple. He had also served as "Purappeda Santhi" of Chottanikkara Devi Temple and Tripunithura Poornathrayeesa Temple. He pleads that the notification issued by the Travancore Devaswom Board confining the field of choice of Melsanthies in Sabarimala Sannidhanam and Malikappuram temples, to be among Malayala Brahmins, is in violation of the Constitution. According to him no such restriction could have been made in view of the pronouncement of this Court reported in **Adithayan v. Travancore Devaswom Board (1996 (1) KLT 1 (F.B.)** affirmed by the Hon'ble Supreme Court of India reported in **N.Adithyan v. Travancore Devaswom Board (LAWS (SC)-2002-10-87).**

2. The primary cause of action on which the writ petition is founded is the plea that the petitioner would have been excluded from being considered for selection as Melsanthi of Sabarimala Sannidhanam Temple on the ground that he is not a Malayala Brahmin. The plea in

the writ petition in this regard is projected that way because his name does not appear in the short list published after conducting the interview. The question therefore is as to whether he was actually considered and, if not, as to what was the reason for his exclusion from being considered for the interview. At the first date of hearing we therefore thought it appropriate to direct the Travancore Devaswom Board to place the tabulation sheet of the marks in relation to the interview. That has been produced today. The petitioner, B.V.Ganesan, is the serial No.14. We see that marks have been allotted to him by the three groups; that is to say, the first group consisting of the President of the Travancore Devaswom Board, the members of the Travancore Devaswom Board and the Devaswom Commissioner and the second group consisting of the Senior Thanthri and the Junior Thanthri of Thazamon Illom/Madom and the third group consisting of the 'Outside Thanthri' in terms of the mediation settlement in relation to the modality of drawing up the Selection Committee. This factual situation excludes the apprehension of the petitioner that he was not included in the short list on the ground that he was not eligible to be considered, once he has been so considered, it goes without saying, that subject to his satisfying other relevant conditions as to continuous service etc., he would be eligible for being considered even in the years to come provided, he applies for being considered.

3. The larger question raised by the petitioner as to whether the use of

the term 'Malayala Brahmin' in the notification is a restriction in the defiance of the constitutional provisions as enunciated and laid down by the Full Bench of this Court and Their Lordships of the Supreme Court in the aforementioned precedents, would a matter for consideration at our hands only if there is a factual foundation giving rise to a cause of action where the petitioner was excluded on the premise that he is not eligible to be considered in terms of that notification. Otherwise, we will be stepping out of the this individual litigation zone and trying to over step into the public interest litigation arena. We think that such an exercise is not warranted to answer the grievances of the petitioner. In the wake of the finding that the apprehensions of the petitioner is misplaced going by the records, we leave open the question whether there is any violation of the Constitution in so far the notification is concerned and since no such issue needs to be decided to answer the grievances raised by the petitioner.

In the result, the writ petition is ordered recording that the petitioner was considered in the interview for the selections of the Melsanthi of Sabarimala Sannidhanam Temple for the year 1191 M.E . All other issues are left open.

Thottathil B. Radhakrishnan, Judge

Anu Sivaraman, Judge