

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 11TH DAY OF NOVEMBER 2015/20TH KARTHIKA, 1937

WP(C).No. 31615 of 2015 (B)

PETITIONER(S):

**GOVINDAN NAMBOOTHIRI M., AGED 63 YEARS
S/O.LATE NARAYANAN NAMBOOTHIRI, KEEZHUSANTHI
SREE MANAPPULLI BHAGAVATHI DEVASWOM
KIZHAKKE YAKKARA, PALAKKAD-13.**

**BY ADVS.SRI.SAJAN VARGHEESE K.
SRI.LIJU. M.P**

RESPONDENT(S):

- 1. THE COMMISSIONER,
MALABAR DEVASWOM BOARD, KOZHIKODE-673001.**
- 2. THE DEPUTY COMMISSIONER,
MALABAR DEVASWOM BOARD, KOZHIKODE-673001.**
- 3. THE BOARD OF TRUSTEES,
SREE MANAPPULLI BHAGAVATHI DEVASWOM
KIZHAKKE YAKKARA, PALAKKAD-13
REPRESENTED BY THE CHAIRMAN.**
- 4. THE EXECUTIVE OFFICER,
SREE MANAPPULLI BHAGAVATHI DEVASWOM
KIZHAKKE YAKKARA, PALAKKAD-13.**

**R1-R2 BY ADV. SRI.PARTHASARATHY. B, SC, MALABAR DEVASWOM BOARD
R4 BY ADV. SRI.V.V.SURENDRAN
R4 BY ADV. SRI.P.A.HARISH
R4 BY ADV. SMT.SAJITHA.S.DHARAN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT.P1- TRUE COPY OF THE COMPLAINT DATED 27.11.2013 SUBMITTED BEFORE THE RESPONDENT.
- EXHIBIT.P2- TRUE COPY OF THE COMPLAINT SUBMITTED TO THE PRESIDENT OF THE MALABAR DEVASOM BOARD, KOZHIKODE DATED 27.11.2013.
- EXHIBIT.P3- TRUE COPY OF THE SUBMISSION DATED 2.4.2014 SUBMITTED BEFORE THE RESPONDENT NO.1.
- EXHIBIT.P4- TRUE COPY OF THE PETITION DATED 17.9.2014 SUBMITTED BEFORE THE RESPONDENT NO.1 BY THE PETITIONER.
- EXHIBIT.P5- TRUE COPY OF THE MEMO OF CHARGES ISSUED TO THE PETITIONER ON 1.9.2012.
- EXHIBIT.P6- TRUE COPY OF THE PROCEEDINGS DATED 11.12.2012 ISSUED BY THE RESPONDENT NO.4
- EXHIBIT.P7- TRUE COPY OF THE ORDER DATED 4.12.2013 PASSED BY THE RESPONDENT NO.2.
- EXHIBIT.P8- TRUE COPY OF THE ORDER DATED 24.04.2014 ISSUED BY THE RESPONDENT NO.4.
- EXHIBIT.P9- TRUE COPY OF THE ORDER DATED 25.6.2014 ISSUED BY THE RESPONDENT NO.1.
- EXHIBIT.P10-TRUE COPY OF THE ENQUIRY REPORT DATED 1.10.2015.
- EXHIBIT.P11- TRUE COPY OF THE NOTICE DATED 7.10.2015 ISSUED BY THE RESPONDENT NO.4.

RESPONDENT(S)' EXHIBITS: NIL

//True copy//

P.A. to Judge

K. VINOD CHANDRAN, J.

W.P.(C) No. 31615 of 2015 (B)

Dated this the 11th day of November, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P11 notice issued to the petitioner in pursuance of a disciplinary enquiry, supplying the enquiry report and calling upon the petitioner to show cause as to the findings in the enquiry report.

2. The contention of the petitioner is that Ext.P11 has found the petitioner to be guilty of the charges alleged against him on the basis of the enquiry report and hence nothing further remains to be considered. The show cause would be a mechanical exercise, is the apprehension of the petitioner.

3. The learned counsel appearing for the Executive Officer, the disciplinary authority, however submits that this is the format in which the enquiry order is supplied to the delinquent employee and it does not pre-empt any consideration. It is also submitted that the reference to the

findings in the enquiry report, as also the compliance of the principles of natural justice as far as the procedure is concerned; are only tentative findings, against which also the petitioner would be entitled to submit objections which would be considered by the disciplinary authority. It can only be so, going by the decision of the Hon'ble Supreme Court in **ECIL v. B. Karunakar - (1993) 4 SCC 727**.

4. In such circumstance, the petitioner is provided a further opportunity of one week to file a detailed objection to the enquiry report which is produced herein at Ext.P10 and the petitioner should also be afforded an opportunity for hearing by the disciplinary authority, the date of which shall be communicated to the petitioner in person on the day of such submission of objections in the office of the Executive Officer. The petitioner shall produce the certified copy of the judgment along with the detailed objections on **23.11.2015** and on that day the office of the 4th respondent; the disciplinary authority, shall give a date of hearing within

one month from the date of submission of the objection and receive acknowledgment from the petitioner and dispose of the matter within a month from the date of hearing.

Writ petition is disposed of.

Sd/-
K.VINOD CHANDRAN,
JUDGE