

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

THURSDAY, THE 29TH DAY OF JANUARY 2015/9TH MAGHA, 1936

WP(C).No. 32628 of 2014 (S)

PETITIONER(S):

C.R. NEELAKANDAN, AGED 58 YEARS
S/O. LATE CHERIKATTU RAMAN NAMBOOTHIRI, THANAL
KIZHAKKEKKARA ROAD, THRIKKAKKARA P.O. KAKKANAD.

BY ADVS. SRI. P.G. SURESH
SRI. G. SUDHEER (THURAVOOR)
SRI. RAJAN VISHNURAJ
SRI. V. HARISH

RESPONDENTS:-

- 1. UNION OF INDIA,
REPRESENTED BY SECRETARY
MINISTRY OF ENVIRONMENT AND FORESTS
PARYAVARAN BHAVAN, CGO COMPLEX, LODHI ROAD
NEW DELHI - 110 003, REPRESENTED BY ITS SECRETARY.
2. STATE OF KERALA,
REPRESENTED BY THE ADDITIONAL CHIEF SECRETARY
DEPARTMENT OF ENVIRONMENT AND CLIMATE CHANGE
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

R1 BY SRI. N. NAGARESH, ASSISTANT SOLICITOR GENERAL OF INDIA
R2 BY SPL. GOVERNMENT PLEADER SMT. GIRIJA GOPAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 29-01-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. A TRUE PHOTOCOPY OF THE EIA NOTIFICATION, 2006 ALONG WITH ITS APPENDIX.

EXHIBIT P2. A TRUE PHOTOCOPY OF THE LIST OF CANDIDATES FORWARDED BY THE 2ND RESPONDENT TO THE 1ST RESPONDENT FOR THE APPOINTMENT TO THE POST OF CHAIRMAN AND MEMBERS OF SEIAA AND SEAC.

EXHIBIT P3 SERIES. A TRUE PHOTOCOPY OF THE BIO DATA SUBMITTED BY DR.K.P.JOY AND DR.J.SUBHASHINI.

EXHIBIT P4. A TRUE PHOTOCOPY OF THE OFFICE MEMORANDUM DATED 02.12.2009 ISSUED BY THE OFFICE OF THE 1ST RESPONDENT.

EXHIBIT P5. A TRUE PHOTOCOPY OF THE ORDER NO.G.O(MS)02/2014/ENVT DATED 21.02.2014.

EXHIBIT P6. A TRUE PHOTOCOPY OF THE JUDGMENT IN APPLICATION No.116(THC) OF .2013.

EXHIBIT P7. A TRUE PHOTOCOPY OF THE ADVERTISEMENT INVITING CANDIDATES TO THE POSTS OF CHAIRMAN AND MEMBERS IN SEIAA AND SEAC PUBLISHED BY DEPARTMENT OF SCIENCE, TECHNOLOGY AND ENVIRONMENT, GOVERNMENT OF PUNJAB.

EXHIBIT P8. A TRUE PHOTOCOPY OF THE LETTER NO.F.NO.J-11013/26/2011-IA.II (I) DATED 10.11.2014 SENT FROM THE OFFICE OF THE 1ST RESPONDENT TO THE 2ND RESPONDENT.

EXHIBIT P9. A TRUE PHOTOCOPY OF THE REPRESENTATION DATED 27.11.2014 PREFERRED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.

RESPONDENT(S)' EXHIBITS

NIL

// TRUE COPY //

P.A. TO JUDGE

sou.

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

W.P.(C). No. 32628 of 2014

Dated this the 29th day of January, 2015

J U D G M E N T

Ashok Bhushan, Ag.CJ

Heard learned counsel for the petitioner, learned Government Pleader as well as learned Assistant Solicitor General of India.

2. This writ petition has been filed as a public interest litigation praying for the following reliefs :

- "(i) Issue a writ of mandamus or any other appropriate writ directing the 2nd respondent to conduct the selection process to the various posts of SEIAA and SEAC in strict compliance with the eligibility criteria laid down in Environmental Impact Assessment, 2006 through a transparent procedure by inviting applications from eligible candidates.
- (ii) Issue a writ of mandamus or any other appropriate writ directing the Respondents to constitute an eligible and accredited panel of experts for the post of Chairman and members of the SEIAA and SEAC, without any further delay.
- (iii) Issue a writ of mandamus directing the respondents to consider and pass appropriate orders on Exhibit P9 representation without any further delay."

3. Petitioner's case in the writ petition is that the appointment to the post of SEIAA and SEAC is required to be made in strict compliance with the eligibility criteria laid down in Environmental Impact Assessment, notification dated 14.9.2006

through a transparent procedure.

4. Learned Government Pleader submits that the State Government has already sent its recommendations to the Union of India which is in accordance with the Environmental Protection Act, 1986.

5. Learned counsel for the Union of India submits that the recommendations has already been received from the Government of Kerala and the matter is in process and the Central Government is likely to take a decision at an earlier date.

6. Learned counsel for the petitioner submits that he has already submitted a representation to the Ministry of Environment and Forest, Ext.P9 raising various issues regarding the eligibility of the persons whose names have been recommended. He submits that a direction be issued to the Union of India to take a decision, after considering Ext.P9.

7. We have heard the submissions of learned counsel for the parties and perused the record. Till date no selection has been made to the aforesaid bodies and the matter is still in progress. There cannot be any denying of the fact that appointment has to be made in accordance with the statutory guidelines covering the field. It is for the Central Government to

consider all the issues including the recommendations made by the Government. At this stage, we are of the view that no direction can be issued to consider the representation as submitted by the petitioner. In the event there is any breach of statutory guidelines in making the appointment, the issue can always be raised, after the said appointment is made. At this stage, it is premature to consider the issues regarding the eligibility with regard to the names which are only recommended for consideration.

We are, thus of the view that let the final process regarding appointment to both the aforesaid body be completed by the Central Government expeditiously as possible. With liberty to the petitioner to raise the issue as and when occasion arises, this writ petition is closed.

Sd/-

**ASHOK BHUSHAN,
ACTING CHIEF JUSTICE**

Sd/-

**A.M.SHAFFIQUE,
JUDGE.**

SOU.