

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 19TH DAY OF MARCH 2015/28TH PHALGUNA, 1936

WP(C).No. 35402 of 2014 (A)

PETITIONER:

**K.G.SOMAN, AGED 52 YEARS,
S/O.GOPALAPILLAI, KOIKKAL HOUSE,
KUTTIPLANGODE P.O., KOOTTICKAL,
IDUKKI DISTRICT-686 514.**

**BY ADVS.SRI.T.A.UNNIKRISHNAN
SRI.K.S.PRAVEEN**

RESPONDENT(S):

- 1. THE GOVERNMENT OF KERALA,
REPRESENTED BY SECRETARY,
SOCIAL WELFARE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001.**
- 2. THE PROGRAMME OFFICER,
OFFICE OF THE PROGRAMME OFFICER,
DISTRICT LEVEL ICDS,
IDUKKI, THODUPUZHA, PIN-685 585.**

BY SENIOR GOVT. PLEADER SMT.K.SUNITHA VINOD

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-03-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 35402 of 2014 (A)

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXHBIT P1. TRUE COPY OF A CERTIFICATE DATED 18/12/2013 ISSUED BY THE
VILLAGE OFFICER, KOKKAYAR.**

**EXHBIT P2. TRUE COPY OF THE G.O.(MS) NO.85/2013/SWD DATED 19/10/2013
ISSUED BY THE 1ST RESPONDENT.**

**EXHBIT P3. TRUE COPY OF THE SAID COMMUNICATION DATED 16/6/2014 ISSUED
BY THE 2ND RESPONDENT.**

RESPONDENT(S)' EXHIBITS: - **NIL**

/TRUE COPY/

P.S. TO JUDGE

mbr/

A.MUHAMED MUSTAQUE, J.

W.P.(C)No.35402 of 2014

Dated this the 19th day of March, 2015

JUDGMENT

The petitioner gave two cents of land situated in Survey No.352/2 of Kokkayar Village for the purpose of constructing a building for 'Anganwadi'. The certificate issued by the Village Officer is produced as Ext.P1. The petitioner by relying on G.O.(M.S) No.85/2013/SWD dated 19.10.2013 made a request for giving employment to the daughter-in-law, being a dependent. The above Government Order permits giving employment to the dependent of persons who have given free land for constructing 'Anganwadi'. This application has been rejected stating that the daughter-in-law would not come within the ambit of the aforesaid Government Order. It is challenging this order, the petitioner has approached this Court.

2. In this matter, a counter affidavit has been filed by the first respondent. It is stated that the daughter-in-law is not included in the category of dependants and therefore, the prayer of the petitioner cannot be considered based on free surrender of the land for constructing 'Anganwadi' building.

3. The petitioner has two fold challenge against the above order. One is with regard to restriction placed for giving employment only to the persons, who have surrendered land after 18.5.2011. The other ground of challenge is based on denial of the benefit to the daughter-in-law.

4. The purpose of the Government Order is to encourage free surrender of the land to construct the building and also come to the aid of such persons by providing employment. The persons who have surrendered the land for the purpose of constructing 'Anganwadi' building form a homogeneous class and cannot be differentiated

based on the date of surrender for the benefit being accorded under the Government Order. All those persons who have surrendered 'Anganwadi' building would be entitled for the benefit in terms of the Government Order. The date has no identifiable differentia to exclude the persons who have surrendered land before 18.5.2011 for claiming benefit.

5. In such circumstances, I am of the view, the restriction as placed in Ext.P2 order to benefit only to the persons who have surrendered land after 18.5.2011 is discrimination and arbitrary. Accordingly, I hold that all the persons, who have surrendered the land free of cost for constructing 'Anganwadi' building will be entitled for the benefit of the employment.

6. The next question is whether the daughter-in-law would come within the ambit of dependent for the purpose of employment. Ext.P2 clearly indicates that the employment

is to be given to the dependent. The dependent in normal course would be understood as a person who has no means of livelihood and needs to look upon another person to provide measures for livelihood. The offer to employment in the Government Order is not with an intention to tide over any penurious circumstances, so as to ensure financial solace to the family. On the other hand, the employment is given as an encouragement to facilitate free surrender of land. In such situation, the dependent has to be understood one in near family relationship. The Government Order though refers the types of dependants such as mother, wife, children or sister. Nevertheless, it does not indicate that the list is exhaustive to exclude any other dependent, who would otherwise eligible for consideration. The paramount objective of the Government Order is only to provide employment to a person in the family. The daughter-in-law is also form part of the family. The daughter-in-law, in our

tradition and culture, is considered as part of the family unit. It is in fact the intention of the Government Order is only to provide employment to anyone among the family who are dependent upon the persons who have surrendered the land. The mere illustration of certain persons could not indicate that the list is exhaustive to deny the benefit to the petitioner. If that be so, I am of the view, the daughter-in-law is also entitled for employment, if otherwise satisfies any other conditions.

Accordingly, the impugned order is set aside. There shall be a direction to the respondents to reconsider the matter after affording an opportunity of hearing to the petitioner within a period of two months.

The writ petition is disposed of as above.

Sd/-

A.MUHAMED MUSTAQUE, JUDGE

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