

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2018

C O R A M

THE HON'BLE Mr.JUSTICE S.M.SUBRAMANIAM

W.P.No.7682 of 2018  
and WMP.Nos.9585 & 9586 of 2018

Cyril C.George,  
Deputy Chairman,  
Chennai Port Trust,  
No.1, Rajaji Salai,  
Chennai- 600 001.

... Petitioner

Versus

1.The Government of India,  
Rep. by its Secretary to Government,  
Ministry of Shipping,  
Transport Bhavan,  
New Delhi - 110 001.

2.The Chief Vigilance Officer,  
Ministry of Shipping,  
Transport Bhavan,  
No.1, Parliamentary Street,  
New Delhi - 110 001.

3.The Chief Vigilance Officer,  
Chennai Port Trust,  
No.1, Rajaji Salai,  
Chennai - 600 001.

4.The Chief Vigilance Officer,  
Cochin Port Trust,  
Kochi - 682 009.

5.The Central Vigilance Commission,  
Rep. by its Secretary,  
Satarkata Bhawan, 'A' Block,  
GPO Complex, INA,  
New Delhi - 110 023.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a writ of mandamus to direct the respondents to pass orders granting Vigilance Clearance to the petitioner to participate in the selection to the post of

Chairman, Cochin Port Trust in Notification No.A-12022/9/2015-PE-I, dated 29.09.2017 and subsequent Notification No.A-12022/9/2015/PE-I, dated 15.02.2018, Notification No.A-12022/9/2016/PE-I, dated 07.07.2017 and Notification No.A-12022/9/2016/PE-I, dated 27.11.2017 issued by the 1<sup>st</sup> respondent, based on the representation submitted by the petitioner dated 10.11.2017 and consequently select and appoint the petitioner to the post of Chairman, Cochin Port Trust, on merit in the selection.

|                 |                                                    |
|-----------------|----------------------------------------------------|
| For Petitioner  | ... Mr.G.Sankaran                                  |
| For Respondents | ... Mr.T.V.Krishnamachari,<br>Senior Panel Counsel |

ORDER

The grievance of the writ petitioner is that pursuant to the notification issued by the first respondent dated 29.9.2017, he had submitted an application for appointment to the post of Chairman, Cochin Port Trust on 10.11.2017 and the application was duly received by the respondents.

2. However, writ petitioner is under apprehension that his application may not be considered on account of fact that the Vigilance Department has not issued any No Objection Certificate in his favour. Thus, the writ petition is moved on the basis of the said apprehension.

3. A mere apprehension would not constitute a cause of action for instituting a writ proceedings under Article 226 of the Constitution of India. The fact remains that the writ petitioner had submitted an application, seeking appointment to the post of Chairman, Cochin Port Trust on 10.11.2017. Undoubtedly, the authorities competent have to consider the application submitted by the writ petitioner along with all other applications submitted by the other candidates in accord with the rules in force. It is needless to state that the authorities competent are bound to take all required steps to proceed with the process of selection by considering all the eligible candidates for appointment to the post of Chairman, Cochin Port Trust.

4. This Court is of an opinion that consideration alone is a right, which can be claimed by the writ petitioner and the final decision on selection is to be undertaken by the competent authorities in accordance with the rules in force for the Post of Chairman, Cochin Port Trust. Thus, the relief as such, sought for in the present writ petition on hand deserves no consideration.

5.Appointment can never be claimed as a matter of right. Consideration of applications submitted by the respective candidates alone are to be construed as right. All appointments are to be made only by following the recruitment rules in force. Equal opportunity in public employment is a constitutional mandate. There cannot be any discrimination in the matter of considering the applications by the competent authorities. Thus, the constitutional perspectives require that the authorities competent act in a fair and reasonable manner, so as to complete the selection in accordance with the constitutional mandates. The fair and reasonable procedures are the inherent ingredients of the constitution. Thus, it is not as if the authorities can choose the candidates at their choice. The procedures are to be not only be fair and it must seem to be fair. Therefore, this Court is of an opinion that the relief sought for that the representation of the petitioner to be considered cannot be granted. Whenever the process of selection is undertaken, then alone the case of the writ petitioner also to be considered along with all other eligible candidates.

6.This being the legal principles to be followed, this Court is of an undoubted opinion that the writ petitioner has not established any acceptable legal ground so as to consider the present writ petition on hand.

7.Thus, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,  
Ministry of Shipping,  
Transport Bhavan,  
New Delhi - 110 001.

2.The chief Vigilance Officer,  
Ministry of Shipping,  
Transport Bhavan,  
No.1, Parliamentary Street,  
New Delhi - 110 001.

3.The Chief Vigilance Officer,  
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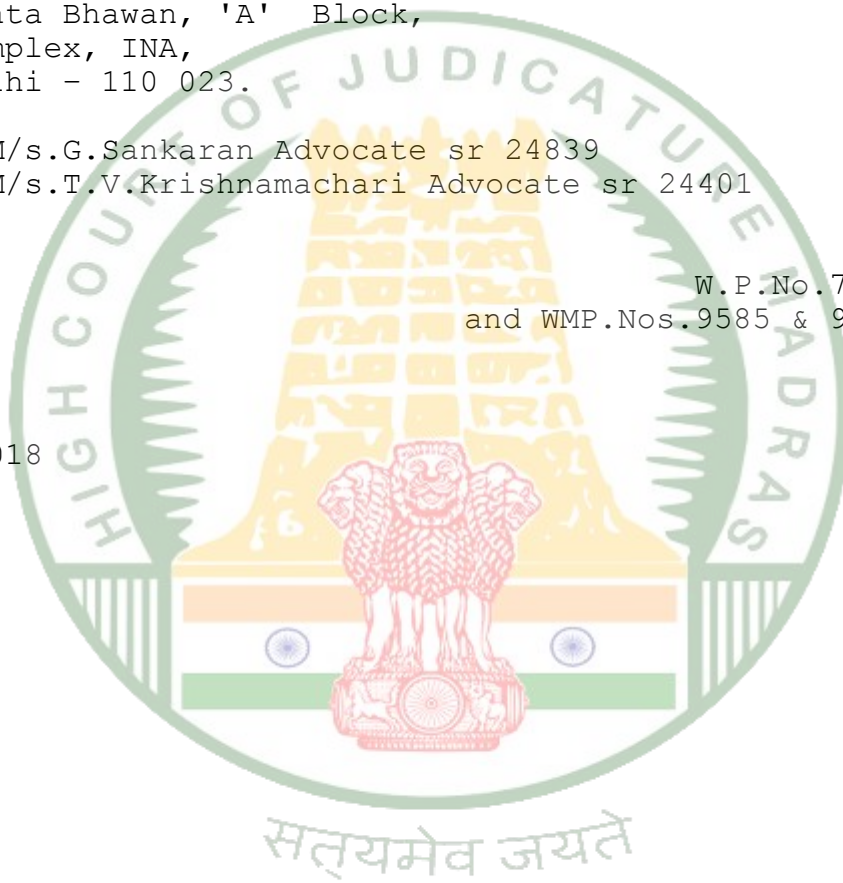
5. The Secretary,  
The Central Vigilance Commission,  
Satarkata Bhawan, 'A' Block,  
GPO Complex, INA,  
New Delhi - 110 023.

+1 cc to M/s.G.Sankaran Advocate sr 24839

+1 cc to M/s.T.V.Krishnamachari Advocate sr 24401

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