

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.04.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G. RAMESH  
and  
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.973 of 2018  
and  
CMP.No.8228 of 2018

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

... Appellant

vs.

1.The Government of India,  
rep. by its Secretary to Government,  
Ministry of Shipping,  
Transport Bhavan,  
No.1, Parliamentary Street,  
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,  
Willington Island,  
Kochi - 682 009.

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

... Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 03.04.2018 passed by the learned Single Judge in WP.No.7682 of 2018.

W.P.No.7682 of 2018:

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus, directing 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-12022/5/ 2016- PE-I dated 07.07.2017 and Notification No.A-12022/ 1/ 2016- PE.I dated 27.11.2017 issued by the 1st 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 based on merit in the selection.

For Appellant : Mr.Prabakaran, SC for  
Mr.G.Sankaran

For Respondents : Dr.R.Venkatasamy Babu

#### JUDGMENT

(Judgment of the Court was made by HULUVADI G. RAMESH, J.)

For the sake of clarity, the parties are referred to as per their litigative status in the writ petition.

2.The schema of the case is as under:

2.1 The unsuccessful writ petitioner is the appellant herein. He is working as a Port Service Officer in Chennai Port Trust. He has rendered unblemished 30 years of service in the Port Sector, till date. While so, the first respondent issued notifications, inviting applications for the post of Chairman in three Port Trusts viz., Cochin Port Trust, Mangalore Port Trust and Goa Port Trust. Pursuant to the same, the writ petitioner submitted application, which was forwarded to the Chief Vigilance Officer for vigilance clearance. Without passing any order, the Chief Vigilance Officer has withheld the vigilance clearance in respect of the writ petitioner.

2.2 Hence, the writ petitioner filed a writ petition being WP.No.7682 of 2018 for a Mandamus, directing the respondents to grant vigilance clearance, so as to enable him to participate in the selection to the post of Chairman, Cochin Port Trust, based on the representation submitted by him on 10.11.2017 and consequently, select and appoint him to the post of Chairman, Cochin Port Trust, on merits.

2.3 By order dated 03.04.2018, the learned Single Judge dismissed the said writ petition, observing that appointment can never be claimed as a matter of right; consideration alone is a right, which can be claimed by the writ petitioner; and the final decision on selection is to be taken by the competent authorities in accordance with the rules in force for the post of Chairman in the Port Trust.

2.4 Feeling aggrieved, the writ petitioner has come up with the present writ appeal.

3.This Court can have no quarrel with the observation that appointment cannot be claimed as a matter of right and it can be made by the competent authorities as per the rules in force, made by the learned Single Judge, while denying the relief sought by the writ petitioner. Therefore, this Court finds no infirmity or illegality in the order so passed by the learned Single Judge.

4.At this juncture, the learned Senior Counsel appearing for the writ petitioner submitted that in the writ petition, the petitioner has not claimed any appointment; what was claimed by him is only vigilance clearance, which is one of the requirements to participate in the selection to the post of Chairman. Though the learned Senior Counsel submitted that in spite of representations submitted by the writ petitioner to all the authorities, requesting to grant of vigilance clearance in his favour, no order has been passed so far, he ultimately, restricted his argument only to the extent of seeking a direction to the respondents to grant vigilance clearance to the writ petitioner.

5.Heard the learned Standing Counsel taking notice for the respondents, who has no objection in this Court granting such a direction to the respondents.

6.Considering the facts and circumstances of the case and having regard to the submissions made by the learned Senior Counsel appearing for the writ petitioner and the learned Standing Counsel for the respondents, this Court, while confirming the order passed by the learned Single Judge in W.P.No.7682 of 2018, directs the writ petitioner to submit a fresh representation to the respondents with regard to grant of vigilance clearance, within a period of two weeks from the date of receipt of a copy of this judgment. On such representation being made, the respondents shall consider the same and pass orders, on merits and in accordance with law, within a period of four weeks thereafter.

7.The writ appeal stands disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-  
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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To

- 1.The Secretary to Government,  
Ministry of Shipping,  
Transport Bhavan,  
No.1, Parliamentary Street,  
New Delhi -110 001.
  - 2.The Chief Vigilance Officer,  
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Willington Island,  
Kochi - 682 009.
  - 5.The Secretary, Central Vigilance Commission,  
Satarkata Bhavan, A Block  
GPO Complex, INA,  
New Delhi - 110 023.
- +1 CC to Mr. Venkataswamy Babu, Advocate sr 30774.  
+1 CC to Mr.G. Sankaran, Advocate sr 30767.

W.A.No.973 of 2018

MG (CO)  
SP(08/06/2018)