

(2012) 06 KL CK 0009

In the High Court Of Kerala

Case No : WP (C) .No. 11080 of 2012-H and WP (C) .No. 12973 of 2012-V

P.T. Narayanan Namboodiri

APPELLANT

Vs

The Commissioner Malabar Devaswom Board, Housefed,
Erannippalam Kozhikode - 673020 and Others

RESPONDENT

Date of Decision : 06-06-2012

Acts Referred:

Citation : (2012) 06 KL CK 0009

Hon'ble Judges : Thottathil B. Radhakrishnan, J;K. Vinod Chandran, J

Bench : Division Bench

Advocate : Prabha R. Menon and Sri. B. Pramod, for the Appellant; Manoj Kumar, SC in Respondent 1 to 2, SRI. P. Vijaya Raghavan, State Attorney in Respondent 3 to 4, Sri. P. Narayanan Respondent 5, Sri. Sunil Nair Palakkat, Sri. K.N. Abhilash and Smt. R. Leela in Respondent 6, for the Respondent

Final Decision : Dismissed

Judgement

Thottathil B. Radhakrishnan, J.

1.The President of the TTK Devaswom has filed WP (C).No. 11080 of 2012 challenging the stand taken by the Malabar Devaswom Board that the notification published by TTK Devaswom inviting applications for appointment of Executive Officer is not in consonance with Ext.R2(b) circular issued by the MDB. The fact of the matter remains that in an earlier round, this Court had recorded the need to follow that circular and also the assurance of TTK Devaswom that it would abide by the said circular in the matter of selection and appointment of Executive Officer. Though this writ petition is couched as if there are serious objections and law and order situation created by some local people, including members of DYFI and that the decision of the MDB calling upon TTK Devaswom to recall its notification is bad, the fundamental issue is as to whether the notification issued by the MDB and published in the local newspaper and placed on record here as Ext.P7 is in conformity with the requirements of Ext.R2(b) circular. The first among the conditions imposed as per Ext.R2(b) circular is that the invitation of

applications for selection has to be notified in a newspaper having circulation in the district where the temple concern is situated. That notification has to show the category to which selection is made, the pay scale and the age limit in terms of laws. Such notification has also to be published in the local village office, grama panchayat office, Assistant Commissioner's Notice Board and on the temple notice board.

2. Contrasting Ext.P7 notification that was published in the newspaper and the aforesaid condition No. 1 in Ext.R2(b), it can be seen that the pay scale has not been notified in Ext.P7. The relaxation in age as available to candidates eligible for such relaxation on grounds of reservation, that is to say, support in favour of SC/SC and OBC, is also not stated in the notification. The contesting fifth respondent has the contention in the counter affidavit that the entire exercise is a camouflage to ensure the selection and appointment of a person mentioned in that counter affidavit. There is also the submission of the fifth respondent that there is a concerted effort to ensure that the appointee comes from Brahmin community only. We keep aside those issues for the time being and focus on the issue whether the notification is in terms of the requirement of Ext.R2(b) circular.

3. As already noted, two essential ingredients are not available in Ext.P7 notification. Pay scale is not mentioned. Relaxation in age for certain categories is also not mentioned. The learned counsel for the petitioner argued that in Exts.P7 and P8, it has been stated that further information can be gathered from the office of the Devaswom. Ext.P9 is stated to be a notification available in the TTK Devaswom office. That includes the provisions relating to age relaxation, pay scales etc. In our view, the requirement of the circular is that all the relevant details as are stated in clause 1 of that circular have to be mentioned in the notification. That clause does not conceive of two notifications. The notification in terms of clause 1 of Ext.R2(b) circular has to be published in a local newspaper having circulation in the district concerned. The copy of that notification has also to be affixed and made available in the notice boards mentioned in that clause in Ext.R2(b) circular. The reason for making such a condition can be easily gathered. However, we need not dwell deep on that, because Ext.R2(b) is issued by MDB authorities with jurisdiction. It was also conceded to by the petitioner that they would abide by the requirements of Ext.R2(b). Under such circumstances, we are clear in our mind that Exts.P7 and P8 are not issued in accordance with Ext.R2(b) and further selection on the basis of those notifications cannot go on. We, therefore, uphold the objection taken by MDB and direct that the TTK Devaswom may re-notify the invitation for applications, however that any applications already received in terms of Exts.P7 and P8 can also be considered along with those applications. The rectified notification shall also be published appropriately. The selection process, including the constitution of the Selection Committee shall be in terms of Ext.R2(b). In view of the above, petitioner in WPC.No. 11080 of 2012 is not entitled to any relief. That writ petition stands dismissed.

WPC.No. 12973 of 2012 does not survive the verdict in WPC.No. 11080 of 2012.
The same is accordingly dismissed without prejudice.