

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WEDNESDAY, THE 3RD DAY OF AUGUST 2022 / 12TH SRAVANA, 1944

WP(C) NO. 22948 OF 2022

PETITIONER:

G.VIPINAN,
AGED 69 YEARS, S/O. GANGADHARAN VAIDYAN,
SENIOR JOURNALIST, PADMA VILAS,
MUNDAKKAL WEST, KOLLAM - 691 016.

BY ADVS.
C.UNNIKRISHNAN (KOLLAM)
UTHARA A.S
MAHESH CHANDRAN
VIJAYKRISHNAN S. MENON
NIDHI BALACHANDRAN

RESPONDENTS:

- 1 UNION OF INDIA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
MINISTRY OF HOME AFFAIRS, NEW DELHI 110 012.
- 2 UNION PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY,
SHAJAHAN ROAD, NEW DELHI- 110 068.
- 3 THE SELECTION COMMITTEE FOR SELECTION TO INDIAN POLICE
SERVICE CONSTITUTED UNDER REGULATION 3 OF THE INDIAN
POLICE SERVICE (APPOINTMENT BY PROMOTION) REGULATIONS
1955, REPRESENTED BY ITS CHAIRMAN,
UNION PUBLIC SERVICE COMMISSION, NEW DELHI-110 069.
- 4 STATE OF KERALA ,
REPRESENTED BY ITS CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.

- 5 STATE POLICE CHIEF,
POLICE HEAD QUARTERS,
THIRUVANANTHAPURAM-695 010.
- 6 ABDUL RASHEED N,
S/O. M. NOOHUKANNU, AGED 57 YEARS,
RETIRED SUPERINTENDENT OF POLICE, CRIME BRANCH,
CENTRAL UNIT IV, VALLAKKADAVU (PO),
THIRUVANANTHAPURAM-695 008, RESIDING AT
SHALIMAR, RAJEEV NAGAR, PALLITHOTTAM (PO),
KOLLAM-691 006.

BY ADV THOMAS MATHEW NELLIMOOTTIL
SRI.C.BIJU, CGC
SRI.K.P.HARISH, SR. GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 03.08.2022, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 3rd day of August, 2022

S.Manikumar, C.J.

In the original petition, the petitioner has sought for the following reliefs:

- “i. To issue a writ of Mandamus or any other appropriate writ order or direction commanding the respondents 1 to 3 not to confer IPS to the 6th respondent in violation of judgment of the Hon'ble Supreme Court in State of MP & Ors. Vs. Parvez Khan (CA No. 10613/2014) taking into consideration of criminal antecedents.
- ii. Call for the records relating to the issuance of integrity certificate in favour of the 6th respondent by respondents 4 & 5 and quash the same by the issuance of a writ of certiorari or appropriate writ, order or direction.
- iii. Issue a writ of mandamus or other appropriate writ, order or direction commanding the State of Kerala and Union of India to conduct an enquiry into the issuance of integrity certificate to the 6th respondent within a couple of days even after he fails to get a favourable order from the CAT and considering the fact that he was declared unfit for the last 2 years by the Selection Committee.”

2. Short facts leading to the filing of the writ petition are as hereunder:

2.1. The petitioner is aggrieved by the steps taken to confer IPS (Indian Police Service), Kerala Cadre to the 6th respondent (a retired police officer) without considering his criminal background and in violation of the judgment of the Hon'ble Supreme Court in **State of M.P. & Ors Vs. Parvez Khan** reported in (2015) 2 SCC 591. The 6th respondent was in custody for more than 90 days for the allegation of committing attempt to murder of one journalist Mr.Unnithan. Several petitions challenging his discharge from criminal case is pending consideration of this Hon'ble Court.

2.2. The Hon'ble Supreme Court in the order dated 01.12.2014 in Civil Appeal No. 10613 of 2014 in **State of M.P. & Ors. Vs. Parvez Khan** (supra) held that "a candidate to be recruited to the police service must be worthy of confidence and must be a person of utmost rectitude and must have

impeccable character and integrity. A person having criminal antecedents will not fit in this category. Even if he is acquitted or discharged, it cannot be presumed that he was completely exonerated. Persons who are likely to erode the credibility of the police ought not to enter the police force."

2.3. Though the Hon'ble Central Administrative Tribunal declined to issue any positive order, he managed to get an integrity certificate from the State, despite his case was rejected several times as unfit and on the basis of the same respondents 2 and 3 are proceeding to confer IPS to the 6th respondent ignoring his antecedents.

3. The learned single Judge, who have heard the writ petition at the admission stage, was of the opinion that the writ petition ought to have moved as a Public Interest Litigation.

4. In the light of the observation and direction directing the petitioner to take appropriate steps in that regard, I.A.No.1 of 2022 is filed to amend the writ petition for

appropriate categorisation namely Public Interest Litigation. The petitioner was also aware that grounds J, K and L have to be incorporated.

5. Reliefs sought to be included in the writ petition are as hereunder:

- “iii a) Issue a writ of quo warranto against the 6th respondent and set aside his selection to IPS.
- iii b) Declare that the 6th respondent is not eligible to be selected and appointed to IPS in view of his criminal antecedents, lack of integrity and impeccable character, that too after 2 years of his retirement from Kerala Police Service.”

6. Taking notice on behalf of the Union Public Service Commission represented by the Secretary, New Delhi (respondent No.2) and also inviting the attention of this court to the IPS (Appointment by Promotion) Regulations, 1955, Mr.Thomas Mathew Nellimoottil, learned standing counsel submitted that the reliefs sought for in the writ petition are not maintainable.

7. He further submitted that for conferment of IPS (Appointment by Promotion), only a select list has been drawn up. The said list has to be examined, approved and appropriate orders have to be passed by the Commission, which is otherwise called as approval.

8. Learned standing counsel for the Union Public Service Commission further submitted that after finalisation of the process involved, taking note of the regulations and the guidelines in force as regards the conferment of IPS (Appointment by Promotion), the matter has to be forwarded to the Central Government.

9. Submission of the learned standing counsel for the Union Public Service Commission is placed on record.

10. We have gone through the material on record. When the process of selection as IPS (Appointment by Promotion) is under consideration before the competent authorities namely Union Public Service Commission and the Central Government, respondent Nos.2 and 1 respectively, it is not for

this court to interfere with the process and issue a mandamus as prayed for.

11. The amendment or inclusion of additional prayer [iii a)], to issue a writ of quo warranto against the 6th respondent and set aside his selection to IPS is too premature as quo warranto can be issued only under certain circumstances. As on today, respondent No.6 has not been selected to IPS. Therefore, seeking a writ of quo warranto is premature and is liable to be rejected.

12. On the second prayer [iii b)], to declare the 6th respondent as not eligible to be selected and appointed to IPS in view of his criminal antecedents, lack of integrity and impeccable character, that too after 2 years of his retirement from Kerala Police Service, is again a matter to be considered only by the Union Public Service Commission/Central Government, authorities, empowered to evaluate the performance, assess the antecedents, etc and to arrive at a conclusion.

In the light of the above discussion, prayers sought for in the original writ petition, as well as additional prayers sought for in I.A.No.1 of 2022 cannot be granted. Accordingly, the writ petition and I.A.No.1 of 2022 are dismissed.

Pending interlocutory applications, if any, shall stand closed.

Sd/-

**S.Manikumar
Chief Justice**

Sd/-

**Shaji P.Chaly
Judge**

vpv

APPENDIX OF WP(C) 22948/2022

PETITIONER EXHIBITS

- Exhibit P1 A TRUE COPY OF THE FIR IN CRIME NO.441 OF 2017 OF SASTHAMCOTTAH POLICE STATION.
- Exhibit P2 A TRUE COPY OF THE PETITION DATED 17/04/12 FILED BY THE CBI BEFORE THE CHIEF JUDICIAL MAGISTRATE COURT, ERNAKULAM.
- Exhibit P3 A TRUE COPY OF THE FINAL REPORT DATED 3/07/12 IN RCI(S)/ 2012/CBI/SCB/CHENNAI.
- Exhibit P4 A TRUE COPY OF THE JUDGMENT DATED 19/09/12 IN WPC NO. 21584/12 OF THIS HONOURABLE COURT.
- Exhibit P5 A TRUE COPY OF THE JUDGMENT DATED 19.09.2012 IN W.P. (C) NO 21581/2012 OF THIS HONOURABLE COURT.
- Exhibit P6 A TRUE COPY OF THE ORDER DATED 10.09.2012 IN CMP NO. 2230/2012 ISSUED BY THE SESSIONS COURT, ERNAKULAM.
- Exhibit P7 A TRUE COPY OF THE REPORT DATED 15/03/14 SUBMITTED BY THE PUBLIC PROSECUTOR.
- Exhibit P8 A TRUE COPY OF THE CRL. M.P. NO. 125/14 FILED BEFORE THE SPECIAL COURT (SPE/CBI), THIRUVANANTHAPURAM.
- Exhibit P9 A TRUE COPY OF THE ADDITIONAL COUNTER AFFIDAVIT PREFERRED BY THE CBI.
- Exhibit P10 A TRUE COPY OF THE ORDER DATED 03/07/14 IN CRL MP 125/15 PASSED BY THE SPECIAL COURT, CBI

- Exhibit P11 A TRUE COPY OF THE ORDER DATED 27/06/17
IN WPC NO. 30307/15 PASSED BY THIS
HONOURABLE COURT.
- Exhibit P12 A TRUE COPY OF THE DEPOSITION OF THE CBI
OFFICIAL AS PW 97 IN SC 244/16.
- Exhibit P13 A TRUE COPY OF THE DEPOSITION OF PW 96 IN
THE UNNITHAN MURDER ATTEMPT CASE.
- Exhibit P14 A TRUE COPY OF THE CRL MP NO 56/18 IN SC
1357/13 FILED BEFORE THE HONOURABLE
SPECIAL COURT (CBI) THIRUVANANTHAPURAM.
- Exhibit P15 A TRUE COPY OF THE ORDER DATED 24/04/19
IN CRL MP NO 56/18 IN SC 1357/13 OF THE
HONOURABLE SPECIAL COURT (CBI)
THIRUVANANTHAPURAM.
- Exhibit P16 A TRUE COPY OF THE JUDGMENT DATED
13/10/21 IN WPC 13461/21 OF THIS
HONOURABLE HIGH COURT.
- Exhibit P17 A TRUE COPY OF THE ORDER DATED 17/06/22
IN OA 51/22 OF THE HONOURABLE CENTRAL
ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH.
- Exhibit P18 A TRUE COPY OF THE REPRESENTATION DATED
01/07/22 SUBMITTED BY THE PETITIONER
BEFORE THE HONOURABLE HOME MINISTER OF
INDIA.
- Exhibit P19 A TRUE COPY OF THE REPRESENTATION DATED
08/07/22 SUBMITTED BY THE PETITIONER
BEFORE THE HONOURABLE CHIEF MINISTER OF
KERALA.
- Exhibit P20 A TRUE COPY OF THE JUDGMENT DATED 1/12/14
IN CIVIL APPEAL NO 10613/14 OF THE
HONOURABLE SUPREME COURT.

- Exhibit P21 A TRUE COPY OF THE JUDGMENT DATED
21.12.2006 IN WP © NO. 33130/2006 OF
THIS HONOURABLE COURT.
- Exhibit P22 A TRUE COPY OF THE NEWS REPORT DATED
18/04/12 PUBLISHED IN MATHRUBHUMI DAILY
REGARDING THE ATTACK OF THE 6TH
RESPONDENT ON HIS SUPERIOR OFFICIAL.
- Exhibit P23 A TRUE COPY OF THE NEWS REPORT PUBLISHED
IN THE YEAR 2012 IN MANORAMA DAILY
REGARDING HANDING OVER THE MILITARY
PERSONS TO THE TERRORIST GROUPS.
- Exhibit P24 A TRUE COPY OF THE NEWS REPORT STATING
THAT THE 6TH RESPONDENT CHEATED CBI BY
ACTING THAT PRETENDING AS DUMP.
- Exhibit P25 A TRUE COPY OF THE REPORT PUBLISHED IN
MANGALAM DAILY ON THE CONFERMENT OF IPS
TO THE 6TH RESPONDENT.
- Exhibit P26 A TRUE COPY OF THE NEWSPAPER REPORT DATED
30/06/22 PUBLISHED IN KERALA KAUMUDI
DAILY.

//TRUE COPY//

P.A. TO JUDGE