

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**Present:**

**THE HONOURABLE MR. JUSTICE K. VINOD CHANDRAN**

**&**

**THE HONOURABLE MR. JUSTICE T.R. RAVI**

**Tuesday, the 25th day of August 2020/3rd Bhadra, 1942**

**WA No. 994/2020**

**Against Judgment dated 09-07-2020 in WP(C) No.10361/2020 of this Court.**

**APPELLANT/2ND RESPONDENT IN THE WRIT PETITION:**

**HIGH COURT OF KERALA, REPRESENTED BY ITS REGISTRAR (GENERAL),  
HIGH COURT BUILDING, ERNAKULAM - 682 031.**

**BY SRI. ELVIN PETER P.J., STANDING COUNSEL**

**RESPONDENTS/PETITIONERS & RESPONDENT NO.1 IN THE WRIT PETITION:**

- 1. RESHMA A., D/O. ASHOK P., AISWARYA HOUSE,  
48/2164, DIG LANE, ELMAKKARA P.O., ERNAKULAM - 682 025.**
- 2. MIDHUN DAS, S/O. D. SARACHANDRA DAS, KARTHICA HOUSE,  
PALAMAROOR, KAMBAZHA P.O., PATHANAMTHITTA - 689 645.**
- 3. SABARI S., W/O. RENJITH KUMAR,  
'CASA' RESIDENCY, MUVATTUPUZHA - 686 661.**
- 4. STATE OF KERALA- REPRESENTED BY THE SECRETARY TO GOVERNMENT,  
HOME (C) DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM - 695 001.**

**BY ADV. SRI. P. C. SASIDHARAN FOR R1 TO R3. (B/O)  
SRI. N. MANOJ KUMAR, SPECIAL GOVERNMENT PLEADER FOR R4. (B/O)**

**This Writ Appeal again coming on for orders on 25.08.2020 along with  
connected case upon perusing the appeal memorandum and this Court's order  
dated 04-08-2020, the court on the same day passed the following:-**

**P.T.0**

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**Present:**

**THE HONOURABLE MR. JUSTICE K. VINOD CHANDRAN**

**&**

**THE HONOURABLE MR. JUSTICE T.R. RAVI**

**Tuesday, the 25th day of August 2020/3rd Bhadra, 1942**

**WA No. 998/2020**

**Against Judgment dated 09-07-2020 in WP(C) No.10007/2020 of this Court.**

**APPELLANT/2ND RESPONDENT IN THE WRIT PETITION:**

**HIGH COURT OF KERALA, REPRESENTED BY ITS REGISTRAR GENERAL,  
HIGH COURT OF KERALA, ERNAKULAM-682031.**

**BY SRI. ELVIN PETER P.J., STANDING COUNSEL**

**RESPONDENTS/PETITIONER & RESPONDENT NO.1 IN THE WRIT PETITION:**

- 1. SWETHA SASIKUMAR, MADHAVIKA,  
PALLOM P.O., KOTTAYAM DISTRICT, PIN-686 007.**
- 2. STATE OF KERALA- REPRESENTED BY ITS PRINCIPAL SECRETARY,  
DEPARTMENT OF HOME, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.**

**BY ADV. SRI. JACOB P. ALEX FOR R1.(B/O)  
SRI. N. MANOJ KUMAR, SPECIAL GOVERNMENT PLEADER FOR R2.(B/O)**

**This Writ Appeal again coming on for orders on 25.08.2020 along with connected case upon perusing the appeal memorandum, and this Court's order dated 04-08-2020, the court on the same day passed the following:-**

**P.T.O**

K. Vinod Chandran & T.R.Ravi, JJ.

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W.A.Nos.994/2020 & 998/2020  
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Dated, this the 25<sup>th</sup> day of August, 2020

**ORDER**

Vinod Chandran, J.

While we were considering the appeals, we came across a very distressing aspect; of the Government having dragged its feet in making an amendment to the Kerala Judicial Service Rules, 1991. Some comprehensive amendments were proposed by the Committee of Judges, which was approved by the Full Court. One of the amendments proposed was to Rule 7 of the Rules of 1991, specifying a procedure for recruitment of Munsiff-Magistrates as also the validity period of the merit list published, to be one year from the date of approval of the Governor or till the select list is prepared, whichever is earlier. This Rule and the efficacy of the same was the subject matter of the appeals. Our decision on that aspect is not relevant for this order.

2. We called for the files, since a submission was made that amendment was proposed in the year 2015 and the same notified by the Government only in 2019. In fact, the amendment proposed of Rule 7 was specifically with respect to the decision in Malik Mazhar Sultan (3) v. U.P.

Public Service Commission [(2008) 17 SCC 703] and to adopt the guidelines therein for carrying out expeditious filling up of posts in the Subordinate and Higher Judicial Service. The subject amendment was very crucial to the recruitment being carried out and timely filling up of posts, intended to ensure an independent and efficient judicial system which has been held to be one of the basic structures of the Constitution of India in All India Judges Assn. (III) v. Union of India [(2002) 4 SCC 247].

3. We perused the files and found that the Government slept over the proposal made by the High Court on 19.12.2015 till 2018. On 07.05.2018, there was a reminder sent from the High Court, where upon an objection was raised on the removal of certain category of employees from the zone of consideration for appointment as Munsiff-Magistrates. This necessitated a D.O. letter by the Hon'ble Chief Justice reminding the Government that the authority to administer Subordinate Judiciary is on the Full Court and that the amendments intended at improving the quality of officers appointed as Munsiff-Magistrates has to be brought in without raising untenable objections. This eventually resulted in the

amendments being notified. We are of the opinion that such lethargy on the part of the Government especially in matters which are in the exclusive authority of the Full Court of the High Court cannot be kept delayed inordinately and pending endlessly.

4. In this context, we are informed by the Registry that there are other matters also in which the Government has not acted with alacrity. Comprehensive amendments to the Code of Civil Procedure, 1908 ['CPC' for brevity] proposed, under the powers conferred by Section 122 of the CPC were forwarded to the Government on 20.11.2019, which has not been replied to or notified. The delay in making the amendments seriously affect the functioning of the Civil Courts, one of which instance is the suits on mortgage which, as per the amendments brought to the CPC by the Union Government necessitates a preliminary decree and a final decree, which is a cumbersome procedure. In fact, in the State of Kerala there was always a composite decree, which would aid in expeditious execution of the mortgage decree. Hence, it was in public good that the amendments were proposed and it has to be brought into force immediately.

5. We are also informed that a comprehensive e-filing system is pending introduction in this Court and the amendments suggested for enabling e-filing procedure has not till date been considered by the Government. The amendments were proposed to Kerala Court Fees and Suits Valuation Act, 1959 and other enactments for electronic payment of Court Fees, fines, miscellaneous amounts etc. to the Treasury and Courts; which has not evoked any response from the Government.

6. These are issues on which, in our opinion, there should be a monitoring on the judicial side of the High Court. In the above circumstances, we direct the Registry to *suo motu* register a writ petition and place the same before the Hon'ble Chief Justice for consideration by a Division Bench of this Court. We make it clear that this is not to consider the validity of any such amendments, which would have to be considered in appropriate proceedings. The Registry would be required to bring to the notice of the Court having roster, as decided by the Hon'ble Chief Justice, the pending matters which requires expeditious consideration. We also deem it fit that there should be an explanation from the Government as

to the delay caused in the amendment to the Kerala Judicial Service Rules, 1991. We direct the learned Special Government Pleader Sri.N.Manoj Kumar to place the explanation before the Court as decided by the Hon'ble Chief Justice.

*26/8/2020*

*26/8/2020*

Vku/-

Sd/-  
K.VINOD CHANDRAN  
JUDGE

Sd/-  
T.R.RAVI  
JUDGE

**True Copy**

*26/8/20*  
Assistant Registrar