

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE N. NAGARESH

TUESDAY, THE 2<sup>ND</sup> DAY OF MAY 2023 / 12TH VAISAKHA, 1945

WP(C) NO. 13007 OF 2020

PETITIONERS:

- 1 SREEDEVI S.,  
AGED 38 YEARS  
D/O. B. SARASWATHI AMMA, SREENILAYAM,  
KARAZHMA EAST, VALIYAKULANGARA .P.O.,  
MAVELIKARA
- 2 MAYADEVI R  
AGED 38 YEARS  
W/O. JAYAPRASAD, VAROTTIL, EZHAKKADAVU P.O.  
CHERUKOLE, MAVELIKARA
- 3 AJITHA SUNIL,  
AGED 33 YEARS  
W/O. SUNILKUMAR, SUNIL BHAVANAM, KARAZHMA EAST,  
VALIYAKULANGARA P.O. MAVELIKARA

BY ADV RINNY STEPHEN CHAMAPARAMPIL

RESPONDENTS:

- 1 THE SELECTION COMMITTEE,  
CHENNITHALA THRIPPERUMTHARA GRAMA PANCHAYATH,  
INTEGRATED CHILD DEVELOPMENT SERVICES SCHEME  
(ICDS), REP. BY ITS CONVENOR, THE CHILD  
DEVELOPMENT PROJECT OFFICER, ICDS MAVELIKARA  
PROJECT, MINI CIVIL STATION, 2ND FLOOR,  
MAVELIKARA -690 101
- 2 THE DIRECTOR  
DIRECTORATE OF WOMAN AND CHILD DEVELOPMENT,  
SOCIAL WELFARE BHAVAN, POOJAPURA,  
THIRUVANANTHAPURAM-695 001
- 3 THE DISTRICT WOMAN AND CHILD DEVELOPMENT  
OFFICER,  
DISTRICT ICDS CELL, MELUVALLIL BUILDING,  
NEAR KALLUPALAM BRIDGE, ALAPPUZHA-688 011

- 4 THE CHILD DEVELOPMENT PROJECT OFFICER,  
ICDS MAVELIKARA PROJECT, MINI CIVIL STATION,  
2ND FLOOR, MAVELIKARA-690 101
- 5 ADDL R5, ALKA B.SATHEESAN,  
MOOLESSERIL, CHENNITHALA SOUTH P.O,  
MAVELIKARA-690 105
- 6 ADDL R6, MINI K.G,  
PADYIL, CHENNITHALA SOUTH P.O,  
MAVELIKKARA-690 105
- 7 ADDL R7, PRASANTHY S,  
AMBALAKKATTU KIZHAKETHIL, CHERUKOL P.O,  
MAVELIKKARA-690 105
- 8 ADDL R8, SREEJA SANJEEVAN,  
VAZHAPPALLIL, CHENNITHALA P.O,  
MAVELIKKARA-690 105.  
IMPLEADED AS PER ORDER DATED 01-07-2020 IN IA  
NO.1/2020.
- 9 ADDL. R9 CHENNITHALA THRIPPERUMTHURA GRAMA  
PANCHAYATH,  
REPRESENTED BY ITS SECRETARY,  
PANCHAYAT KARYALAM, CHENNITHALA P.O.,  
MAVELIKKARA-690 105.  
ADDL. R9 IS IMPLEADED AS PER ORDER DATED  
8/7/2022 IN IA I/22 IN WPC 13007/2020.

BY ADVS.

SMT.K.G. SAROJINI, GP  
SRI.T.B.HOOD-ADDL R5 TO R8  
SMT.M.ISHA- ADDL R5 TO R8  
SRI.AMAL KASHA- ADDL R5 TO R8  
SRI.SANIL KUNJACHAN-ADDL R9  
SMT.T.M.RESHMI-ADDL R9

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 02.05.2023, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

**CR**

**N. NAGARESH, J.**

.....  
W.P.(C) No.13007 of 2020  
.....

*Dated this the 2<sup>nd</sup> day of May, 2023*

**J U D G M E N T**

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The petitioners are before this Court seeking to quash Ext.P17 select list and to direct the 4<sup>th</sup> respondent to appoint them in the vacancies of Anganwadi Workers in Anganwadi Centre Nos.81, 84, 96 and 155 of Chennithala Thriperumthura Grama Panchayat under the ICDS Mavelikkara Project.

2. The petitioners state that they had earlier worked as temporary Anganwadi Workers. Proceedings were initiated for making regular appointment to four

existing vacancies of Anganwadi Workers in Chennithala Thriperumthura Grama Panchayat. According to the petitioners, the select list prepared is illegal and one drawn violating the conditions in GO dated 30.04.2018.

3. The petitioners state that they are qualified to be appointed as Anganwadi Workers. They have worked as temporary Anganwadi Workers earlier. Four permanent vacancies of Anganwadi Workers exist in Chennithala Thriperumthura Grama Panchayat in Anganwadi Centre Nos.81, 84, 96 and 155. The petitioners therefore submitted applications for permanent appointment. The respondents constituted a Selection Committee. As per Ext.P14 Government Order dated 22.12.2012, the Panchayat President is the Chairperson and the ICDS Project Officer is the Convenor. There are three other ex-officio members. Five social workers are also included in the Committee. The petitioners would submit that the Panchayat is ruled by the Left Front and five representatives to the Committee were nominated purely

based on political consideration.

4. As per Ext.P16 GO dated 30.12.2018, every fourth vacancy shall be set apart for promotion from Anganwadi Helpers and 10% vacancies in every project should be set apart for persons who donated land for Anganwadi or for their dependents. The 1<sup>st</sup> petitioner is therefore entitled to appointment to the first vacancy in the 10% quota. The 1<sup>st</sup> petitioner has around 400 days of working experience. The 2<sup>nd</sup> petitioner is the secondmost senior out of the temporary Anganwadi Workers.

5. The petitioners submit that an illegal selection was conducted on 28.12.2019. A select list of 60 persons was published as per Ext.P17 for appointment as Anganwadi Workers and another 39 persons for appointment as Anganwadi Helpers. Ext.P17 has not been prepared based on merit. Extraneous considerations have impacted Ext.P17. Persons selected are kith and kin of Selection Committee members. Close relatives of the Panchayat President are ranked top in Ext.P17 list. The

selection itself is vitiated as the Interview Board consists of persons who are close relatives of the candidates who were assigned top rank in the select list. Aggrieved by Ext.P17 select list, the 1<sup>st</sup> petitioner submitted Ext.P18 representation before the 4<sup>th</sup> respondent-Child Development Project Officer. Ext.P18 did not yield any result.

6. The counsel for the petitioner argued that the select list contains close relatives of the nominated Selection Committee members. Applications were submitted by the close relatives after the nomination of the five Selection Committee members by the Panchayat Committee. Such relatives of candidates who are in the Selection Committee should not have participated in the selection process. Now, hasty steps are being taken to grant appointment to candidates who are ranked top on extraneous considerations.

7. The counsel for the petitioner relied on the judgment of the Apex Court in ***Asok Kumar Yadav and***

**others v. State of Haryana and others [(1985) 4 SCC 417]** and argued that in the process of taking decision in respect of several persons by an Administrative Body, if there is a real likelihood of bias on the part of a member of that Body in respect of even a single person, that member should withdraw from the entire process. The counsel urged that it is not necessary to establish bias but it is sufficient to invalidate a selection process if it could be shown that there is reasonable likelihood of bias.

8. As the selection is vitiated by bias, the selected candidates who are included in the select list will not get any right. The petitioners relied on **Rakesh Kumar Gupta and others v. State of U.P. and others [2005 SCC 172]** in this regard.

9. Respondents 1 and 4 opposed the writ petition. Respondents 1 and 4 submitted that the Selection Committee was constituted following the criteria laid down in Ext.P14 GO. Respondents 1 and 4 are not expected to scrutinise the constitution of Selection Committee. The

Selection Committee is to be finally approved by the District Social Justice Officer. The District Social Justice Officer has approved the constitution of Selection Committee as per Ext.R4(a), which approval is not under challenge.

10. As regards the claim of the 1<sup>st</sup> petitioner to get appointment based on donation of land, respondents 1 and 4 pointed out that the 1<sup>st</sup> petitioner's mother had only expressed a consent to the Panchayat to donate the land. Property is not transferred to the Panchayat. The 4<sup>th</sup> respondent has participated in the selection process in a fair manner. The petitioners have failed to advance any evidence to establish bias in giving marks to respondents 5 to 8. The writ petition is therefore devoid of any merits.

11. Respondents 5 to 8 also contested the writ petition filing counter affidavit. Respondents 5 to 8 submitted that all affected parties are not impleaded in the writ petition. The petitioners have no allegation that they have not been awarded marks based on the laid down



criteria. There is no allegation that the petitioners were given lower marks. They don't even have case that respondents 5 to 8 were given higher marks. Respondents 5 to 8 further pointed out that the 1<sup>st</sup> petitioner's mother surrendered land to one Priyadarshini Mahila Samajam and not to the Panchayat. The 1<sup>st</sup> petitioner has no case that she is a dependent of the person who donated land.

12. It is further submitted on behalf of respondents 5 to 8 that Grama Panchayat Committee consists of various political parties and persons were nominated to the Selection Committee by the Grama Panchayat Committee. The five social workers who were nominated to the Selection Committee did not belong to one political party. In fact, all the five nominated members were qualified and competent to act as Selection Committee members. The petitioners have not advanced a definite case of bias. Respondents 5 to 8 possess higher qualifications and hence they were ranked above the petitioners.

13. The 9<sup>th</sup> respondent-Secretary to Grama Panchayat filed counter affidavit. The Panchayat Secretary is only a member in the Selection Committee. The Panchayat has no other role in the selection process. The decision to make appointment to the post of Anganwadi Workers or Helpers rest fully with the 1<sup>st</sup> respondent. The 1<sup>st</sup> petitioner or her mother has not assigned any property to the Panchayat for the purpose of constructing Anganwadi. The writ petition is therefore liable to be dismissed.

14. I have heard the learned counsel for the petitioner, the learned Government Pleader representing respondents 1 to 4 and the respective learned counsel appearing for respondents 5 to 9.

15. The petitioner has alleged specific case of bias in the selection process for appointment to the four existing vacancies of Anganwadi Workers in Chennithala Thriperumthura Grama Panchayat. Ext.R4(a) order dated 03.08.2019 of the District Social Justice Officer contains

the names of five persons who are nominated to the Selection Committee. The candidate selected and placed at Serial No.1 of Ext.P17 Alka V. Satheesan is daughter of Bini Satheesan who is an approved nominated member to Selection Committee as per Ext.R4(a). Serial No.15 Sreeja Sanjeevan is wife of Sanjeevan, Vazhappallil who is also a nominated member to the Selection Committee. The petitioners would allege that Miss. Mini K.G. placed at Serial No.3 is also a relative of Bini Satheesan. Mr. Prasanth who is selected and placed at Serial No.6 is a close relative of the Panchayat President. The petitioners would point out that the candidates at Serial Nos.1, 3, 6 and 15 who were awarded 14.83, 13.42, 10.68 and 12.71 marks respectively out of the total 15 marks for interview. The petitioners were awarded much lesser marks.

16. Assuming for argument sake that there is no serious anomaly in awarding marks to the candidates who participated in the interview based on their qualifications, even then it is obvious that the Selection Committee

consisted of interested parties vis-a-vis the candidates participating in the selection process. The impact of bias in selection proceedings is well explained by the Hon'ble Apex Court in ***A.K. Kraipak and others v. Union of India and others*** [(1969) 2 SCC 262]. The Hon'ble Apex Court held that what is to be seen is whether there is reasonable ground for believing that a member of the Selection Committee is likely to have been biased. A mere suspicion of bias is not sufficient and there must be a reasonable likelihood of bias. In the case of candidates at Serial No.1 Alka V. Satheesan, she is daughter of Bini Satheesan who is a member of the Selection Committee. Serial No.15 Sreeja Sanjeevan is wife of Sanjeevan, Vazhappallil. When parents/spouse of candidates are actively involved in a Selection Committee, it has to be assumed that there is reasonable likelihood of bias taking into consideration human probabilities and ordinary course of human conduct.

17. In the judgment in ***Asok Kumar Yadav and others*** (supra), the Hon'ble Apex Court held that one of the fundamental principles of our jurisprudence is that no man can be a Judge in his own cause and that if there is a reasonable likelihood of bias, it is in accordance with natural justice and commonsense that the person likely to be so biased should be incapacitated from sitting.

18. As regards the argument of the respondents that all candidates in the select list are not parties to the writ petition, the Hon'ble Apex Court in the judgment in ***Mukul Kumari Thyagi and others v. State of Uttar Pradesh and others*** [(2020) 4 SCC 86] has held that when the inclusion in the select list of large number of candidates is on the basis of an arbitrary or illegal process, the aggrieved parties can complain and in such cases, necessity of impleadment of each and every person cannot be insisted.

19. ***Dr.(Mrs.) Kirti Deshmankar v. Union of India and others*** [(1991) 1 SCC 104] was a case where the

mother-in-law of the selected candidate was vitally interested in the admission of her daughter-in-law and participated in the selection proceedings. The Hon'ble Apex Court held that the very presence of the mother-in-law in the meeting is sufficient to establish bias and it was not necessary to prove actual bias. It is sufficient to invalidate the selection process if it is shown that there is reasonable likelihood of bias.

20. It is true that the petitioners have approached this Court after participating in the selection process. Normally, a candidate cannot challenge selection process after participating in the same. The Hon'ble Apex Court has held in the judgment in ***Dr.(Major) Meeta Sahai v. State of Bihar and others*** [(2019) 20 SCC 17] that the said principle is differentiated in so far as candidate by agreeing to participate in selection process only accepts prescribed procedure and not the illegality in it. Therefore, I find that the writ petition at the instance of the petitioners is amply justified in the facts and circumstances of the

case.

21. The selection process impugned in the writ petition is clearly vitiated by bias due to the facts and reasons given above. Ext.P17 select list is therefore quashed. Respondents 2 to 4 and 9 are directed to constitute a fresh Selection Committee and conduct selection process afresh, considering the candidature of those who have already participated in the selection process. This shall be done within a period of two months.

Writ petition is disposed of above.

Sd/-

**N. NAGARESH, JUDGE**

aks/19.04.2023

APPENDIX OF WP (C) 13007/2020

PETITIONER'S EXHIBITS

EXHIBIT P1	TRUE COPY OF THE SSLC BOOK OF 1ST PETITIONER
EXHIBIT P2	A TRUE COPY OF THE CERTIFICATE ISSUED TO THE 1ST PETITIONER BY THE JOINT CONTROLLER OF TECHNICAL EXAMINATION
EXHIBIT P3	A TRUE COPY OF GIFT DEED DT 13.05.1983
EXHIBIT P4	A TRUE COPY OF THE LETTER DATED 20.6.2019 ISSUED BY THE PRESIDENT OF THE PRIYADRSHINI MAHILA SAMAJAN,
EXHIBIT P5	TRUE COPY OF THE EXPERIENCE CERTIFICATE ISSUED TO THE 1ST PETITIONER BY THE 4TH RESPONDENT
EXHIBIT P6	A TRUE COPY OF THE APPLICATION SUBMITTED BY THE 1ST PETITIONER MOTHER BEFORE THE 4TH RESPONDENT
EXHIBIT P7	A TRUE COPY OF THE COMMUNICATION DATED 23.9.2009 ISSUED BY THE 4TH RESPONDENT
EXHIBIT P8	A TRUE COPY OF THE APPLICATION DATED 12.7.2019 SUBMITTED BY THE 1ST PETITIONER
EXHIBIT P9	A TRUE COPY OF SSLC BOOK OF THE 2ND PETITIONER
EXHIBIT P10	A TRUE COPY OF THE APPLICATION DATED 16.7.2019 SUBMITTED BY THE 2ND PETITIONER
EXHIBIT P11	A TRUE COPY OF THE APPLICATION DATED 16.7.2019 SUBMITTED BY THE 2ND PETITIONER
EXHIBIT P12	TRUE COPY OF SSLC CERTIFICATE OF 3RD PETITIONER
EXHIBIT P13	A TRUE COPY OF THE EXPERIENCE CERTIFICATE DATED 1.7.2019 ISSUED BY THE 4TH RESPONDENT
EXHIBIT P14	A TRUE COPY OF GO (MS) NO.74/2012/SJD



EXHIBIT P15 TRUE COPY OF DECISION NO.13/13 OF THE  
CHENNITHALA THRIPPERUMTHARA GRAMA  
PANCHAYATH COMMITTEE

EXHIBIT P16 A TRUE COPY OF GO(MS) NO.254/2018/SGD  
DATED 30.04.2018

EXHIBIT P17 A TRUE COPY OF SELECTION LIST OF  
ANGANWADI WORKERS OF CHENNITHALA  
THRIPPERUMTHURA GRAMA PANCHAYAT

EXHIBIT P18 A TRUE COPY OF REPRESENTATION OF 1ST  
PETITIONER

Exhibit P19 A TRUE COPY OF THE RELEVANT PAGES OF  
RATION CARD NO. 1421012720 ISSUED BY  
THE TALUK SUPPLY OFFICER IN THE NAME  
OF THE 1ST PETITIONER'S MOTHER

Exhibit P20 A TRUE COPY OF DECISION NO.9/1 DATED  
20.7.2019 TAKEN BY THE CHENNITHALA  
THRIPPERUMTHARA GRAMA PANCHAYAT.

Exhibit P21 A TRUE COPY OF THE GO (MS)  
85/2013/SGD DATED 19/10/2013 ISSUED  
BY THE GOVERNMENT OF KERALA

Exhibit P22 A TRUE COPY OF THE LETTER DATED  
13/3/2012 ISSUED BY THE DIRECTOR OF  
SOCIAL WELFARE DEPARTMENT

Exhibit P23 A TRUE COPY OF THE PERFORMA DATED  
22/3/2012 BY THE PROGRAM OFFICER

RESPONDENT'S EXHIBITS

Exhibit R4 A TRUE COPY OF ORDER NO. A4/1820/19  
DATED 03.08.2019.

Exhibit R4 B TRUE COPY OF LIST SPECIFICALLY  
STATING THE FIELD OF SOCIAL WORK OF  
THE SELECTION COMMITTEE MEMBERS.

Exhibit R4 C TRUE COPY OF G.O. (MS) NO. 58/08/SJD  
DATED 22.10.2008.

Exhibit R4 D TRUE COPY OF THE COMBINED SENIORITY  
LIST IN WHICH MRS RADHAMONY IS  
INCLUDED.

Exhibit R5 A TRUE COPY OF G.O. (M.S.) NO.  
58/08/SJD DATED 22.10.2008.