



2023:KER:83986

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

WEDNESDAY, THE 20TH DAY OF DECEMBER 2023 / 29TH AGRAHAYANA,

1945

WP(C) NO. 33338 OF 2023

PETITIONER:

P. C. NAJEEB
AGED 54 YEARS, ADVOCATE,
S/O. LATE MOIDEEN KOYA, KARUNYAM,
PUTHUPPADY P.O., KOZHIKODE DISTRICT,
PIN - 673586

BY ADVS.
MATHEW KURIAKOSE
T.G.SUNIL (PERUMBAVOOR)
J.KRISHNAKUMAR (ADOOR)
MONI GEORGE
K.R.ARUN
SHAJI P.K.
PREETHU JAGATHY

RESPONDENTS:

- 1 THE STATE OF KERALA
REPRESENTED BY THE PRINCIPAL SECRETARY,
DEPARTMENT OF LAW, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 2 THE PRINCIPAL SECRETARY
DEPARTMENT OF LAW, GOVERNMENT OF KERALA,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 3 THE ADDITIONAL LAW SECRETARY,
GOVERNMENT OF KERALA, SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001
- 4 THE DISTRICT COLLECTOR, KOZHIKODE
CIVIL STATION, ERANHIPPALAM,
KOZHIKODE, PIN - 673020
BY ADV.
SRI.SUNIL KUMAR KURIAKOSE - GP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 20.12.2023, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

**C.R.****JUDGMENT**

In matters of appointment of Advocates as Notaries, several matters are reaching this Court, primarily because the Authorities do not act within the ambit of the statutory scheme, in its proper perspective.

2. When an Advocate applies to be a Notary, minimum requirement of expertise and quality is to be presumed; and it is only in cases where it is found to be otherwise, or where someone else is found preferable on cogent and verifiable bedrock, a choice can be effectively made.

3. This Court has opened the judgment with the afore preface because this is a matter in which the petitioner has approached this Court at least twice before. Even though he was interviewed by the Statutory Interview Board and found eligible, his application was rejected under Rule 8(1)(c) of the Notaries Rules, 1956 (hereinafter referred to as the 'Rules' for short), but without assigning any reason. This has been frowned upon by this Court in several judgments in the past because, when an application of an Advocate is so dealt with, it will cast a stigma on his reputation and competence, which cannot be permitted or countenanced.

4. It is not that the respondents are not aware of this, because



this Court has, in the earlier rounds of litigation, made it luculent that applications of Advocates cannot be rejected summarily under Rule 8(1)(c), but only for valid reasons.

5. However, in Ext.P5, which is the order impugned in this writ petition, the sole reason stated by the Government is that, there were a large number of applicants and that a culling was necessary from among them. However, when this happens, obviously there is a choice exercise, and that has to be explained cogently. Ext.P5, unfortunately, does not do so, but merely says that the petitioner's application has been rejected solely because there were several times number of applicants than vacancies.

6. It is indubitable and without requirement of further expatiation that this Court cannot find favour with Ext.P5; and that the matter will require to be reconsidered by the Government

7. I must restate that this Court is persuaded to the afore course, because an Advocate cannot be held unworthy of being appointed as a Notary, without explaining why it is so, since this would indubitably cast deep aspersion on his competence and credentials. This cannot be allowed, whatever be the reason, including large number of candidates or applications.

8. Even when the Government has the right to reject an application under Rule 8(1)(c), it has to be done for germane and



legal reasons. The factum of the number of applicants being much higher than the vacancies, cannot be the sole reason to summarily reject it, except if it is established that there are others, who are found to be more eligible in the process. (See for support - **Abdul Kareem M.T.P. v. State of Kerala** [2023 (1) KHC 666]).

In the afore circumstances, this writ petition is allowed and Ext.P5 is quashed; with a consequential direction to the Government to reconsider the claim of the petitioner, adverting to Ext.P4 judgment, as expeditiously as is possible but not later than two months from the date of receipt of a copy of this judgment.

**Sd/-
DEVAN RAMACHANDRAN
JUDGE**



APPENDIX OF WP(C) 33338/2023

PETITIONER EXHIBITS

- Exhibit P 1 A TRUE COPY OF THE MEMORIAL DATED
08.01.2013 (EXCLUDING ANNEXURE) SUBMITTED
BY THE PETITIONER
- Exhibit P 2 A TRUE COPY OF THE COMMUNICATION CUM
ORDER DATED 20.07.2021 ISSUED BY THE BY
THE 3RD RESPONDENT TO THE PETITIONER
- Exhibit P 3 A TRUE COPY OF THE ORDER, G.O.(ORD)
NO.129/2022/LAW DATED 01.02.2022 ISSUED
BY THE 1ST RESPONDENT TO THE PETITIONER
- Exhibit P 4 TRUE COPY OF THE JUDGMENT DATED
07.07.2023 IN W.P.(C) NO. 16864/2022 OF
THIS HON'BLE COURT
- Exhibit P 5 A TRUE COPY OF THE ORDER, G.O.(ORD)
NO.1029/2023/LAW DATED 20.09.2023 ISSUED
BY THE 1ST RESPONDENT TO THE PETITIONER

RESPONDENTS' EXHIBITS : NIL.