

GURUVAYOOR DEVASWOM MANAGING COMMITTEE A

v.

CHAIRMAN, GURUVAYOOR DEVASWOM MANAGING
COMMITTEE AND ORS.

JANUARY 19, 1996 B

[K. RAMASWAMY AND G.T. NANAVATI, JJ.]

Service Law :

Selection for the post of clerks in Guruvayoor Devaswom—High Court entrusting the responsibility to the Administrator of the Devaswom—Director of Training. High Court directed to be Observer—Later the High Court replacing the Administrator with the Director of Training—Held: Associating a judicial officer with the selection not conducive and proper—In the absence of any allegation against the Administrator, High Court not justified in removing him from the Selection Committee Affidavit—Filing of in Court-Parties to State true and correct facts, stand by them and take orders from Court—Tendency to file affidavit and to give oral contra instructions—Deprecated—Practice & Procedure. D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2933 of 1996. E

From the Judgment and Order dated 17.11.95 of the Kerala High Court in C.M.P. No. 32587/95 in O.P. No. 10608 of 1993.

K.K. Venugopal, Fazlin Anam for the Appellant. F

R.F. Nariman, Dhruv Mehta and K.L. Mehta for the Respondents.

C.S. Vaidyanathan and K.V. Viswanathan and K.V. Venkataraman for the intervenors.

The following order of the Court was delivered: G

Leave granted.

Application for impleadment is rejected.

We have heard Shri Venugopal, learned senior counsel for the H

A appellant and also the learned counsel, Shri Vaidyanathan, on behalf of the intervenor-said to be devotee. The Division Bench of the Kerala High Court in the impugned order has stated that on November 2, 1995, the Court had chalked out a programme to conduct the examinations and interviews for selection of the candidates of the posts of lower/upper division clerks in Guruvayoor Dewaswom and the C.M.P. has been filed for direction to entrust the duty of setting out and printing of the question papers for the written test. After hearing the counsel, the Court was of the view that the said responsibility could safely be entrusted to the Administrator or Guruvayoor Devaswom. Accordingly the Administrator was directed to get the question paper set by competent persons with utmost secrecy. The Court also directed the Administrator to get them printed for distribution only at the examination centre on the date of the written test. Subsequently, on November 2, 1995 it directed the conduct of interviews by a committee consisting of the Chairman, the Administrator and Mr. M. Gopalan, member of Guruvayoor Devaswom Managing Committee and a practicing advocate of the High Court. The Director of Training, High Court was directed to be as observer in the interview. In the impugned order dated 2.11.1995, the High Court has replaced Gopalan as member of the Committee and ordered that the Director should be one of the members of the Committee. This later order is now impugned in this appeal.

When the matter had come up on 12.1.1996 for admission, the devotee sought to intervene. We directed him to file an affidavit whether any allegations have been made against Mr. Gopalan in the High Court for being replaced with the Director and accordingly he had taken time. Today, we are informed that though an affidavit has been prepared, that is not reflective of correct facts and counsel had some contra oral instructions. We deprecate this tendency to file an affidavit and to give oral *contra* instructions. Party must state true and correct facts in the affidavit and should stand by them and take orders from the Court. Obviously, Shri Vaidyanathan has correctly taken the responsibility in not filing that affidavit which is inconsistent with the oral instructions. The devotee does not have the courage to make allegations against Gopalan. Under these circumstances, we proceed on the footing that no allegations have been made against Gopalan for his being replaced with the Director, a Judicial offence.

Shri Venugopal is right in his contention that it would be salutary to leave the selection to the Selection Committee constituted to conduct the written test and interview of the candidates without any involvement or active participation by the judicial arm of the Court in the process of selection. It is not proper for the Court to associate itself with the said process of conducting the examinations by nominating its judicial officer in the process of selection. Otherwise, the Court itself would come into criticism for associating its officers with selection of the candidates, in the event of allegations made against the said selections. We find great force in the contention of Shri Venugopal. Under those circumstances, associating a judicial officer with the selection is not conducive and proper. In the absence of any allegation against Gopalan and any indication to that effect in the order of the High Court, we think that the High Court was not justified in removing him from the Committee.

The appeal is accordingly allowed, but in the circumstances, without costs.

G.N.

Appeal allowed.