



GOVERNMENT OF KERALA

Abstract

LSGD – Information Kerala Mission - Judgment of the Hon'ble High Court of Kerala in WA No.1125 of 2020 filed by Information Kerala Mission against the Judgement in WP(C)No. 31809/2015 dated 07/01/2020 – Complied with – Orders issued.

LOCAL SELF GOVERNMENT (IB) DEPARTMENT

G.O.(Rt)No.694/2021/LSGD Dated,Thiruvananthapuram, 12/03/2021

- Read 1 G.O.(Rt)No. 3865/2008/LSGD dt.3/11/2008.
2 G.O.(Rt)No.1385/2012/LSGD dt.18/05/2012.
3 G.O. (Ms)No.176/2017/LSGD dt 31/8/2017.
4 Judgment dated 20/03/2018 of the Hon'ble High Court of Kerala in WP(C) No.31809/2015 filed by Sri. Murukadas and Others.
5 G.O.(Rt) No. 1981/2018/LSGD dt. 20/07/2018.
6 Judgment dated 07/01/2020 of the Hon'ble High Court of Kerala in WP(C) No.36595/2018.
7 Letter No.3766/E4/2020/IKM dated 26.08.2020 of the Executive Director, IKM, Thiruvananthapuram.
8 Letter no. R3-WP(C) No.36595/2018/2020 dated 27/8/2020 from the Advocate General, Kerala, Ernakulam.
9 Judgment dated 25/11/2020 of the Hon'ble High Court in WA No. 1125/2020.

ORDER

As per Government Order read 1st paper above, orders were issued sanctioning restructuring of Information Kerala Mission (IKM) and reclassification of designation for project staff. A list of 440 staff in to 13 categories with appropriate designations was also approved as per the said order. In this list of 440, Data Entry Operators were not included. Sri.Murukadas and others filed WP(C)No.31809/2015 before the Hon'ble High Court of Kerala to quash the order passed by Executive Director, IKM in compliance of the judgment dated 11.02.2015 in WP(C) No. 4437/2015, wherein the request for regularisation of the petitioners was rejected. As per the

judgement read as 4th paper above, the Hon'ble High Court passed orders giving liberty to the petitioners to approach the Government with suitable representation and directed the Government to consider and pass appropriate orders in the said representation within a period of 2 months after affording the petitioners a reasonable opportunity of hearing. Accordingly, the petitioners submitted a representation before Government and they were heard. After hearing, the Government issued the order read 5th paper above directing the Executive Director, IKM to appoint the petitioners in the existing vacancies and to fill the remaining vacancies only after appointing the petitioners.

2) The Executive Director has not complied the Govt Order and furnished a report to Government as per letter read as 7th paper above, pointing out the difficulties in compliance.

3) Aggrieved by the non-compliance of the Government Order cited 5th above by Executive Director, IKM, the petitioners filed contempt of Court Case No.847/2020 before the Hon'ble High Court. Again the petitioners filed WP(C) No.36595/2018 before the Hon'ble High Court and the Hon'ble High Court as per judgment cited 6th above directed respondents 2 and 3 (i.e. Executive Director, IKM) to appoint the petitioners.

4) Consequently, the Executive Director IKM filed a Writ Appeal No.1125/2020 challenging the judgment read 6th above. The Hon'ble High Court as per the judgment read as 9th paper above has observed that the very principle of directing employment of part time employees is illegal especially in the light of the judgement of the Apex Court in State of Karnataka Vs Umadevi [(2006) 4SCC1] and if at all any person has been employed as a daily wage basis or on contractual basis after the judgment, in Umadevi (Supra), they cannot claim any regularisation and no Court or Tribunal can direct such persons to be regularised.

5) The relevant extract of the Judgment read as 9th paper above is reproduced below.

".....None of the persons who were engaged for carrying out the data entry works in the Municipalities were under the employment of the first appellant organization. They were paid by the concerned Municipalities. There is nothing in Ext.P4 to indicate that they were selected by a due process of selection and their engagement was in respect of sanctioned posts. This court can direct implementation of an order only if it is found to be an order passed in accordance with law. Even an order of regularization to be implemented required to be scrutinized in order to find out whether any legal right will flow from the said order. If the order itself is against a settled principle of law by a

Constitution Bench of the Apex Court, the court have to refrain from implementing such orders. Learned Single judge therefore committed error in directing implementation of EXT P4 as the said order itself is against the law laid down by the Apex Court".

In the result, this appeal is allowed setting aside the judgment of the learned single judge and the writ petition stands dismissed.

6) Government have examined the matter in detail. In the light of the observations made in the judgment read as 9th paper above that the order passed is against the law laid down in the Apex Court, the Government Order read 5th paper remains null and void and accordingly the Government order read 5th above is hereby cancelled.

(By order of the Governor)
SARADA MURALEEDHARAN IAS
ADDITIONAL CHIEF SECRETARY

To:

Advocate General, Kerala, Ernakulam (with cover letter)

The petitioners Concerned. (Through Executive Director, IKM)

✓ The Executive Director, Information Kerala Mission,
Thiruvananthapuram.

The Accountant General (E&RSA / G&SSA), Kerala, Thiruvananthapuram

The Accountant General (A&E) Kerala, Thiruvananthapuram

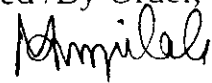
The Finance Department

The Law Department

The Information and Public Relations (Web & New Media) Department

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Section Officer.