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19/8/14



GOVERNMENT OF KERALA
Abstract

Social Justice Department- Appointment of Chairperson in the Kerala State Commission for Protection of Child Rights - Request for prosecution of Dr.K.M.Abraham, Additional Chief Secretary, Social Justice Department - Rejected - Orders issued.

SOCIAL JUSTICE (A) DEPARTMENT

G.O (Rt) No.523/2014/SJD

Dated, Thiruvananthapuram, 14.08.2014.

- Read:-
1. Application dated 9/4/2014 from Sri.P.S.Balasubramaniam, Advocate, No.2, Victory Buildings Malloor Road, Vanchiyoor, Thiruvananthapuram.
 2. G.O.(P) No. 59/2012/SWD dated 04.10.2012.
 3. G.O.(P) No. 44/2013/SJD dated 23.05.2013.

ORDER

Sri.P.S.Balasubramaniam, Advocate, Vanchiyoor, vide application read as 1st paper above has requested to accord sanction to prosecute Dr.K.M.Abraham, Additional Chief Secretary, Social Justice Department, Government of Kerala under section 197 of the Code of Criminal Procedure, 1973 for the offences under sections 465 and 468 IPC alleging material alteration in the minutes of the Selection Committee Meeting and thereby corruption in the selection of the Chairperson of the State Child Rights Commission. The allegation is based on the fact that the applicant received a copy of the minutes signed by only one of the Member of the Committee and subsequently a copy of the Minutes signed by all the three Members of the Committee. The applicant alleges that there is material alteration in the document amounting to forgery punishable under sections 465 and 468 I.P.C read with section 34 thereof.

2. As envisaged by the Commission for the Protection of Child Rights Act, 2005, the State Government have framed the Kerala State Commission for Protection of Child Rights Rules, 2012 vide Government Order read as 2nd paper above. As per Government Order read as 3rd paper above, Smt.Neela Gangadharan, IAS (Rtd) was appointed as Chairperson of Kerala State Commission for Protection of Child Rights.

3. The appointment of the Chairperson of the Child Rights Commission is made under the provisions of the Commission for Protection of Child Rights Act, 2005 and the Kerala State Commission for Protection of Child Rights Rules, 2012. As per Rule 4(1) of the said Rules, the Chairperson and Members of the Commission shall be appointed on the recommendation of a three member Selection Committee constituted by the Government under the Chairmanship of the Minister of Social Welfare. The Selection Committee thus constituted vide G.O.(Rt) No. 468/12/SWD dated 25.10.2012 for selection of Chairperson and Members of the Commission consists of Dr.M.K.Muneer, Hon'ble Minister for Panchayath and Social Justice, Sri.C.P.Ramaraja Prema Prasad, Law Secretary and Dr.K.M.Abraham, Additional Chief Secretary, Social Justice Department.

4. The Selection Committee met on 15.04.2013 and 25.04.2013, based on which the Minutes was prepared. The copy of the minutes received by the applicant under the Right to Information Act was incomplete in the sense that it was signed only by Dr.K.M.Abraham and the

spaces for the signatures of the Hon'ble Minister and the Law Secretary were kept blank. The copy of the minutes received by the applicant was only a copy of a draft signed by Dr.K.M.Abraham and sent to the other two Members for affixing their signatures. This copy was retained in the file merely as a backup for the draft that was sent to the other two Members of the Committee for their signatures. This draft at the processing stage was erroneously given to the applicant by oversight.

5. A reading of both the Minutes would show that the contents of both the Minutes are one and the same. It cannot therefore be said that there is any material alteration as alleged. The second copy of the minutes received by the applicant is a verbatim reproduction of the first copy. The first copy of the Minutes, which was in the draft form, immediately after one of the Members alone had affixed his signature, was issued due to an oversight. This is evident from a comparison of the draft erroneously given and the Minutes signed by all the Members of the Committee. None of the ingredients of forgery or forgery for the purpose of cheating has been made out.

6. It is well settled that the public servants acting in good faith while discharging their official duties shall be protected against irresponsible frivolous or vexatious proceedings unless there is a *prima facie* foundation for the charges alleged. Material alteration in the minutes, amounting to forgery and thereby corruption in the appointment of the Chairperson of the State Child Rights Commission are the allegations levelled against the official. Since the contents of both the Minutes received by the applicant are one and the same, there is no material to suggest even *prima facie* that there is any material alteration, forgery, forgery for the purpose of cheating or any misuse or abuse of power or any other offence. The allegations are baseless and there is no material in support of the allegations.

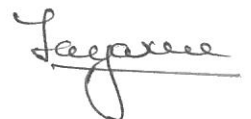
7. In the above circumstances, Government have examined the matter in detail and have decided not to accord prosecution sanction under section 197 of the Code of Criminal Procedure as requested by the applicant and the request for Prosecution Sanction is hereby declined.

(By order of the Governor)
E.K. BHARAT BHUSHAN
Chief Secretary to Government

To

Sri.P.S.Balasubramaniam, Advocate, No.2, Victory Buildings, Malloor Road, Vanchiyoor,
Thiruvananthapuram..
The Information Officer, Web & New Media, Information and Public Relations Department.
(for updating in the official website).
Stock File/Office Copy.

Forwarded/By order,



Section Officer