

D. Madanan

Vs

State of Kerala and Another

Civil Appeal No. 3243 of 1979

(V.R. Krishna Iyer, R.S. Pathak, A.D. Koshal JJ)

07.11.1979

JUDGMENT

KRISHNA IYER, J. –

1. Leave granted.

2. The problem raised in this appeal relates to the application of the special rule for recruitment and appointment of Fisheries Inspectors under the Kerala State. The case has had a chequered career in the High Court and the point raised perhaps involves re-opening and re-examining the appointments made or refused in the past. We do not think that under the limited circumstances of the present case it is necessary so to do. The appellant and one other next below him, Shri Gangadharan Nair, have already been appointed as Fisheries Inspectors after the learned Single Judge in the High Court pronounced his judgment and pursuant thereto. Although the Division Bench of the High Court reversed that decision a stay was granted by Court at the preliminary stage. The consequence is that the appellant and Shri. Gangadharan Nair have already been functioning as Fisheries Inspector for some time. Having regard to the equities of the case we are satisfied that those two persons may continue as they now are and if this position accepted there is no need to go into the sense of the rules and pronouncement by this Court on the validity of the recruitment made by government. We put it to counsel on both sides and while the justice of the case is appreciated by both, the legal aspects, they submit, may requires fuller investigation. We are not inclined to do so since the case can be disposed of by a direction, which we make, that the appellant shall continue as regularly appointed Fisheries Inspector. Beyond that, there is no need to examine the case and we dispose of the appeal with this limited direction.

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