

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR

&

THE HONOURABLE MR. JUSTICE S.MANU

MONDAY, THE 20TH DAY OF JANUARY 2025 / 30TH POUSHA, 1946

WA NO. 83 OF 2025

[AGAINST THE JUDGMENT DATED 24-12-2024 IN WP(C)
NO.31104/2024 OF HIGH COURT OF KERALA.]

APPELLANT/PETITIONER:

XXXXXXXXXX
XXXXXXXXXX XXXXXXXXXXXX

BY ADVS. SRI.P.V.JEEVESH,
SRI.C.K.RADHAKRISHNAN (CHALIL,
SRI.C.R.NEELAKANDAN NAMBOODIRI.

RESPONDENTS/RESPONDENTS:

- 1 THE UNION OF INDIA,
THROUGH THE CABINET SECRETARY,
CABINET SECRETARIAT, SOUTH BLOCK,
RASHTRAPATI BHAVAN, NEW DELHI - 110004.
- 2 STATE OF KERALA,
THROUGH THE CHIEF SECRETARY, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM - 695001.
- 3 THE CHIEF SECRETARY
STATE OF KERALA, GOVT. SECRETARIAT,
THIRUVANANTHAPURAM - 695001.
- 4 THE HOME SECRETARY, HOME DEPARTMENT,
KERALA STATE, GROUND FLOOR, MAIN BLOCK,
SECRETARIAT, THIRUVANANTHAPURAM,
KERALA - 695010.



2025:KER:4155

5 M.J. SOJAN, AGED 54 YEARS,
S/O. M.D. JOSE, MECHERY HOUSE, ELINJIPRA P.O.,
CHALAKUDI, THRISSUR- 680721, PRESENTLY WORKING AS
THE SUPERINTENDENT OF POLICE, CRIME BRANCH,
CENTRAL UNIT - 2, ERNAKULAM - 682301.

R1 BY ADV. SRI. KRISHNA T.C.

R5 BY ADV. SRI. GEORGE POONTHOTTAM(SR)

BY SENIOR GOVERNMENT PLEADER SRI. V. TEKCHAND

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
20.01.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



JUDGMENT

Dated this the 20th day of January, 2025.

Nitin Jamdar, C. J.

By this appeal filed under Section 5 of the Kerala High Court Act, 1958, the Appellant/Original Petitioner challenges the order passed by the learned Single Judge dated 24 December 2024 dismissing W.P.(C) No.31104 of 2024 filed by the Appellant.

2. Respondent No.1 is the Union of India, Respondent No.2 is the State of Kerala, Respondent No.3 is the Chief Secretary, and Respondent No.4 is the Home Secretary. Respondent No.5 is holding the post of Superintendent of Police, Non-I.P.S. cadre, in the State Police.

3. In the Writ Petition, the Petitioner sought to question the issuance of Exhibit-P4 Government order dated 18 August 2024 by the Deputy Secretary, Home Department, rejecting her representation against Respondent No.5. The Petitioner had also raised objections regarding the issuance of integrity certificate to Respondent No.5 and to withdraw the same.

4. The Indian Police Service (Appointment by Promotion) Regulations, 1955 (Regulations of 1955) deal with promotions to I.P.S. service. Regulation 5 concerns the preparation of a list of suitable officers. The Government of India's Decision below Rule 5 of the Regulations of 1955 in clause 1.1 refers to the issuance of a certificate by the Chief



Secretary of the State Government certifying the integrity of the candidate. This is the integrity certificate referred to in the petition.

5. The case of the Petitioner is that in the year 2017, her two minor daughters died under suspicious circumstances. The crime was registered under the provisions of the Protection of Children from Sexual Offences Act, 2012, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and the Indian Penal Code, 1860. According to the Petitioner, due to the faulty and illegal investigation, the accused were acquitted, and the Court directed a re-trial and the investigation by the Central Bureau of Investigation.

6. According to the Petitioner, Respondent No.5, the then investigating officer, who now holds the charge of Superintendent of Police, could not have been given an integrity certificate as he was responsible for the faulty investigation. The Petitioner also contended that Respondent No.5 had made derogatory remarks against the Petitioner and her daughters and that the Petitioner had initiated prosecution against Respondent No.5. The Petitioner had also filed a writ petition wherein this Court had directed Respondent No. 2 to consider her representation. This representation was rejected, and the integrity certificate came to be issued, which, according to the Petitioner, ought not to be issued as Respondent No.5 is not a person with integrity and honesty, which is required for public service. On this ground, the Petitioner had sought to challenge the issuance of the integrity certificate.



7. Respondent No.5 had filed a counter affidavit before the learned Single Judge questioning the locus of the Petitioner and contending that the petition is not maintainable. Respondent No.5 also contended that in service matters, only the affected party could file an application; the Petitioner cannot be considered as an affected party for consideration of promotion to Respondent No.5. Respondent No.5 denied the pendency of a criminal case and stated that the proceedings had been quashed. He also denied making any derogative remarks against the Petitioner and her children. It was contended that Respondent No.5 has 29 years of unblemished service, has secured 70 Good Service entries, and has been honoured with a “Badge of Honour” by the State Police. It was also his contention that the Court had appreciated the investigation by Respondent No.5 in respect of the death of Petitioner’s daughters.

8. After considering the rival contentions and the judicial pronouncements cited, the learned Single Judge dismissed the writ petition by the impugned judgment, against which the present appeal is filed.

9. We have heard Mr. P.V. Jeevesh, learned counsel for the Appellant, Mr. V. Tekchand, learned Senior Government Pleader, Mr. George Poonthottam, learned Senior Advocate appearing for Respondent No.5, and Mr. T.C. Krishna, learned Senior Central Government Counsel. The learned counsel have reiterated the contentions that they have raised before the learned Single Judge.



10. Primarily, the challenge is the issuance of an integrity certificate to Respondent No.5. As pointed out above, this is a certificate that is issued by the Chief Secretary of the State as required under the Regulations of 1955 for the purpose of promotions. Admittedly, the Petitioner is not a contestant for the promotional post for which the Petitioner is aspiring. The integrity certificate is to be considered by the Selection Committee constituted under Regulation 3.

11. Regulation 3 of the Regulations of 1955 reads thus:

“3. Constitution of the Committee to make Selection:-

(1) There shall be constituted for a State Cadre or a Joint Cadre specified in column 2 of the Schedule, a Committee consisting of the Chairman of the Commission or where the Chairman is unable to attend, any other member of the Commission representing it and other members specified in the corresponding entry of column 3 of the Schedule:

Provided that –

(i) no member of the Committee other than the Chairman or the member of the Commission shall be a person who is not a member of an All India Service;

(ii) the nominees of the Government of India shall not belong to the cadre of the State for which the meeting of the Committee is to be held; and

(iii) the Central Government may after consultation with the State Government, amend the Schedule.

(2) The Chairman or the member of the Commission shall preside at all meetings of the Committee in which he is present.



(3) The absence of a member, other than the Chairman or member of the Commission, shall not invalidate the proceedings of the Committee if more than half the members of the Committee had attended the meeting.”

Therefore, Respondent No.5 is right in contending that this would be the prerogative of the State to issue the certificate of integrity. The candidature of Respondent No.5 has been approved by the Union Public Service Commission (UPSC), and the UPSC has now seized the aspect of promotion, and the Petitioner's attempt is to stall the promotion of Respondent No.5.

12. Respondent No.5 was found eligible for promotion to the Indian Police Service (IPS) cadre by the State Government as per the Regulations of 1955. Respondent No.2 had not issued an integrity certificate to Respondent No.5 on the ground that a criminal case was pending. Respondent No.5 had filed O.A. No.80 of 2023 before the Central Administrative Tribunal for a direction to issue an integrity certificate. Respondent No.5 prayed for the same relief by way of an interim relief. The Tribunal declined to allow the interim application, holding that the prayer for this interim relief will be considered along with the Original Application. Respondent No.5 had filed O.P.(CAT) No.113 of 2023 before this Court. The Division Bench of this Court, by Exhibit-P2 judgment dated 24 August 2023, allowed the petition and directed that the integrity certificate cannot be mechanically withheld, and the decision will have to be taken for issuance of the integrity



certificate. Meanwhile, in W.P.(C) No.29196 of 2023 filed by Petitioner, the learned Single Judge directed that the representation in respect of the issuance of integrity certificate to Respondent No.5 should be considered. Respondent No.4, pursuant to both these directions of this Court, passed an order at Exhibit-P4 wherein the representation of the Petitioner was rejected. It was noted that the integrity certificate which was already issued was not necessary to be revoked. It was stated that Respondent No.5 was not charge sheeted in a case filed by the Petitioner, and the Court had stayed the case in favour of Respondent No.5.

13. The learned Single Judge has examined the challenge of the Petitioner in detail. The learned Single Judge has observed that Respondent No.5 was not the investigating officer in Crime No.43 of 2017. Instead, he was the Superintendent of Police, and no strictures were passed against Respondent No.5. On the other hand, the Division Bench had observed that despite reasonably good work done by Respondent No.5, he was deputed to investigate the case almost a week after the death of the younger daughter of the Petitioner and he could not gather any scientific evidence. Further, the proceedings in one of the criminal cases were quashed. It was also noted that regarding the derogatory statement, the Special Court had declined to take cognizance of the offence, Respondent No.5 had disputed his voice, and there were no visuals or time standard description of the location. The learned Single Judge has also noted the scheme of the Regulations of 1955 and



that norms stipulate that integrity certificate shall not be withheld merely because the enquiry is pending, and each case has to be examined.

14. The Respondent Authority, after considering the material on record and noting that the criminal cases against Respondent No. 5 have either been quashed or that merely because an enquiry is pending, the integrity certificate cannot be mechanically withheld, has proceeded to issue the integrity certificate. The Petitioner cannot convert her challenge, if at all maintainable, akin to an appeal against the issuance of an integrity certificate to Respondent No.5. We find no reason to interfere with the judgment and order of the learned Single Judge.

15. Apart from this position, we note that the Government of India's Decision below Rule 5 of the Regulations of 1955 states that the Chief Secretary of the State Government who is the sponsoring authority in respect of eligible officers whose cases are placed before the Selection Committee has to record by a certificate that the State Government certify the integrity of such officer with reference to the entries in his annual confidential reports. It has to be noted that as per clause 1.2 of the said Decision, the Selection Committee also has to consider the question of suitability with reference to integrity and has to specifically record in their proceedings that they were satisfied from the remarks in the confidential reports of the officers and there was nothing against their integrity. Therefore, the Selection Committee has to independently examine the aspect of the integrity of the candidate. As per the scheme of



the Regulations of 1955 in the Government of India's Decision, even if the integrity certificate is issued, the Selection Committee is not precluded from examining the aspect of integrity. Even the learned Senior Advocate for Respondent No.5 submitted that the issuance of an integrity certificate is only a procedural aspect and cannot be considered as an unquestionable and conclusive document in all circumstances. Thus, the aspect of promotion by the Selection Committee and the aspect of integrity can be considered by the Committee independently. This is yet another reason not to interfere with the order passed by the learned Single Judge.

16. As a result, no interference is warranted with the judgment dated 24 December 2024 in W.P.(C) No.31104 of 2024. The Appeal is dismissed.

Sd/-
NITIN JAMDAR,
CHIEF JUSTICE

Sd/-
S. MANU,
JUDGE

krj/-

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P.A. TO C.J.