



IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR. NITIN JAMDAR

&

THE HONOURABLE MR. JUSTICE S.MANU

TUESDAY, THE 18TH DAY OF FEBRUARY 2025 / 29TH MAGHA, 1946

WA NO. 1737 OF 2024

AGAINST THE JUDGMENT IN WP(C) NO.21014 OF 2022 OF
HIGH COURT OF KERALA

APPELLANT/S:

C. KRISHNANKUTTY NAIR
AGED 65 YEARS
S/O. CHELLAPPAN PILLAI, RESIDING AT SREEKRISHNA
BHAVAN, KIZHAVOOR, MUKHATHALA P.O., KOLLAM, PIN -
691577

BY C. KRISHNANKUTTY NAIR(Party-In-Person)

RESPONDENT/S:

- 1 PRINCIPAL SECRETARY
WOMEN & CHILD DEVELOPMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM, PIN - 695001
- 2 WOMEN CHILD WELFARE DIRECTOR
WOMEN & CHILD DEVELOPMENT DIRECTORATE,
THIRUVANANTHAPURAM, PIN - 695012
- 3 N.SHANMUGHA DAS (DELETED)
KOCHU PANAYIL, VALATHUNGAL P.O, KOLLAM, PIN -
691011
- 4 ASHA DAS (DELETED)
LILLY BHAVAN, MATHILIL P.O, KOLLAM, PIN - 691601
- 5 AMBIKA SONI F (DELETED)



ST. CHARLES CONVENT, CHITTAYAM INCHAVILA P.O.,
KOLLAM, PIN - 691601

- 6 ASHWATHY VISWAN (DELETED)
ASHWATHY, VIKAS NAGAR-76, TKMC P.O., KARIKODE,
KOLLAM, PIN - 691005
- 7 RENJANAA. R (DELETED)
RENUKA SADANAM, PERUMPUZHA P.O, KOLLAM, PIN -
695014. R3 TO R7 ARE DELETED FROM THE PARTY ARRAY
AS PER ORDER DATED 7-1-2025 IN I.A.NO.1/2024 IN
W.A NO.1737/2024.
- 8 ALAN M ALEXANDER
SEENAY, VISHNATHUKAVU NAGAR-95 , THIRUMULLAVARAM
P O, KOLLAM, PIN - 691012

BY ADV S.SREEKUMAR (KOLLAM)

OTHER PRESENT:

SRI V TEKCHAND, SR.GP

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON
18.02.2025, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:



C. R.

JUDGMENT

Dated this the 18th day of February, 2025.

Nitin Jamdar, C. J.

The appointment to the post of member of the Child Welfare Committee, Kollam, is the subject matter of this appeal. The Appellant -the original Petitioner, filed a writ petition to challenge the appointment of Respondent No. 8 as a member of the Child Welfare Committee and for a prayer to appoint the Appellant as a member. The learned Single Judge dismissed the writ petition. Hence, the Appellant filed this appeal under Section 5 of the Kerala High Court Act, 1958.

2. The Child Welfare Committee is constituted under Section 27 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (Act of 2015) for every district. This Committee consists of a Chairman and four other members. Exercising the powers under Section 110(1) of the Act of 2015, Juvenile Justice (Care and Protection of Children) Modal Rules, 2016 (Rules of 2016) have been framed by the Central Government. Chapter IV of the Rules of 2016 provides for the Child Welfare Committee. Rule 87 of the Rules of 2016 enables the State Government to constitute the Selection Committee. The Selection Committee consists of a retired judge of the High Court as the Chairperson to be appointed in consultation with the Chief Justice of the High Court concerned and a representative from the department as specified, representatives from non-governmental organisations,



academic bodies, universities, etc. The State of Kerala, by notification dated 18 July 2017, has framed the Juvenile Justice (Care and Protection of Children) Constitution of Child Welfare Committees and Juvenile Justice Boards (Kerala) Rules, 2017 (Rules of 2017), which provides for the constitution of the Committee, qualifications for the Chairperson and members of the Committee, and the tenure of the Committee.

3. By Exhibit-P2 notification dated 26 November 2021 issued by the Women and Child Development Department, applications were invited for appointment to the posts of the Chairperson and members of the Child Welfare Committees in 14 Districts in the State of Kerala. The notification states that as per the Act of 2015, applications are invited to appoint the Chairman and four members of the Child Welfare Committee each in 14 Districts of Kerala. The period of appointment was for three years.

4. The Appellant applied pursuant to Exhibit-P2 notification. Twenty-nine applications received were found to be eligible. Interviews were held on 22 March 2022. The Appellant participated in the interview. Thereafter, a list was prepared. The Appellant was given a ranking at No. 9. A recommended panel list for the Child Welfare Committee was prepared. It included Mr. Sanil Kumar S. as Chairperson of the Committee, Ms. Ambika Sony, Ms. Aswathy Viswan and Ms. Renjana A. R. as three members, and Mr. Alan M. Alexander, Respondent No. 8, was recommended as a member of the Committee. Mr. C. Krishnankutty Nair, the Appellant, was placed at



No. 1 on the waiting list of the Child Welfare Committee members. Appointments were made by appointing the members from the recommended panel list as above, who were notified in the Official Gazette issued on 16 June 2022, including the Child Welfare Committee of the Kollam District. The Appellant was not appointed.

5. The Appellant filed W. P. (C) No. 21014 of 2022, challenging the appointment of Respondent No. 8 on the ground that he is not qualified as per the eligibility criteria laid down in the Act of 2015 and the State Rules of 2017. The main contention of the Appellant was that Respondent No. 8 lacks the mandatory seven years of experience in the areas connected with the welfare of children. According to the Appellant, he not only was fully qualified to have the necessary educational qualifications but also has experience of more than seven years in the areas connected with the welfare of children and being next on the waiting list, he should be appointed after setting aside the appointment of Respondent No. 8.

6. The State has filed a counter affidavit dated 8 February 2024. Respondent No. 8 has also filed a counter affidavit dated 5 March 2024. The Appellant has filed a reply affidavit dated 11 March 2024.

7. The learned Single Judge, after considering the arguments and material on record, concluded that the role of the Court in the matter relating to selection is limited, and the Court cannot sit in appeal over the decision of the Selection Committee. The learned Single Judge held that the Selection Committee, having found that Respondent No. 8



had experience, cannot be interfered with and dismissed the writ petition by the impugned judgment dated 2 September 2024. Challenging this order, the Appellant is in appeal before us.

8. We have heard Mr. C. Krishnankutty Nair, Appellant-in-person, Mr. S. Sreekumar (Kollam), learned counsel for Respondent No. 8, and Mr. V. Tekchand, learned Senior Government Pleader for the State.

9. Since the matter was being delayed and the Appellant has no grievance against the other Respondents, the Appellant has deleted the other private Respondents. The Appellant has restricted the challenge to the appointment of Respondent No. 8 and a consequential direction for his own appointment. In appeal, the Appellant has argued the case only with reference to the appointment to the Child Welfare Committee.

10. Child Welfare Committees are constituted under Section 27 of the Act of 2015 which reads thus:-

“27. Child Welfare Committee- (1) The State Government shall by notification in the Official Gazette constitute for every district, one or more Child Welfare Committees for exercising the powers and to discharge the duties conferred on such Committees in relation to children in need of care and protection under this Act and ensure that induction training and sensitisation of all members of the committee is provided within two months from the date of notification.

(2) The Committee shall consist of a Chairperson, and four other members as the State Government may think fit to appoint, of whom atleast one shall be a woman and another, an expert on the matters



concerning children.

(3) The District Child Protection Unit shall provide a Secretary and other staff that may be required for secretarial support to the Committee for its effective functioning.

(4) No person shall be appointed as a member of the Committee unless he has a degree in child psychology or psychiatry or law or social work or sociology or human health or education or human development or special education for differently abled children and has been actively involved in health, education or welfare activities pertaining to children for seven years or is a practising professional with a degree in child psychology or psychiatry or law or social work or sociology or human health or education or human development or special education for differently abled children.

(4A) No person shall be eligible for selection as a member of the Committee, if he--

(i) has any past record of violation of human rights or child rights,

(ii) has been convicted of an offence involving moral turpitude, and such conviction has not been reversed or has not been granted full pardon in respect of such offence,

(iii) has been removed or dismissed from service of the Government of India or State Government or an undertaking or corporation owned or controlled by the Government of India or State Government,

(iv) has ever indulged in child abuse or employment of child labour or immoral act or any other violation of human rights or immoral acts, or

(v) is part of management of a child care institution in a District.



(5) No person shall be appointed as a member unless he possesses such other qualifications as may be prescribed.

(6) No person shall be appointed for a period of more than three years as a member of the Committee.

(7) The appointment of any member of the Committee shall be terminated by the State Government after making an inquiry, if--

(i) he has been found guilty of misuse of power vested on him under this Act;

(ii) he has been convicted of an offence involving moral turpitude and such conviction has not been reversed or he has not been granted full pardon in respect of such offence;

(iii) he fails to attend the proceedings of the Committee consecutively for three months without any valid reason or he fails to attend minimum three-fourths of the sittings in a year.

(8) The Committee shall submit a report to the District Magistrate in such form as may be prescribed and the District Magistrate shall conduct a quarterly review of the functioning of the Committee.

(9) The Committee shall function as a Bench and shall have the powers conferred by the Code of Criminal Procedure, 1973 (2 of 1974) on a Metropolitan Magistrate or, as the case may be, a Judicial Magistrate of First Class.

(10) The District Magistrate shall be the grievance redressal authority to entertain any grievance arising out of the functioning of the Committee and the affected child or anyone connected with the child, as the case may be, may file a complaint before the District Magistrate who shall take cognizance of the action of the Committee and, after giving the parties an opportunity of being heard, pass appropriate order.”



(emphasis supplied)

Section 27(4) opens with the negative language that no person shall be appointed as a member of the Committee unless he possesses the prescribed qualifications.

11. In the exercise of the powers conferred by the proviso to Section 110(1) of the Act of 2015, the Central Government has framed model rules titled Juvenile Justice (Care and Protection of Children) Model Rules, 2016. Rule 15 of the Model Rules prescribes the composition of the Child Welfare Committees and their eligibility and experience. Rule 87 of the Model Rules provides for the constitution of the Selection Committee by the State Government and its composition. The State of Kerala, under Rule 7 of the Juvenile Justice (Care and Protection of Children) Constitution of Child Welfare Committees and Juvenile Justice Boards (Kerala) Rules, has also prescribed the constitution of the Committee. The qualifications for the Chairperson and the members of the Committee are provided under Rule 8, and the tenure of the Committee is referred to in Rule 9. These Rules are in addition to the Act of 2015 and the Model Rules. Therefore, under the Act of 2015, the Model Rules, and the State Rules of 2017, no person should be appointed as a member unless he possesses a degree as prescribed and has been actively involved in health, education or welfare activities pertaining to children for seven years or is a practising professional with a degree in child psychology or psychiatry or law or social work or sociology or human health or education or human development or special education for differently abled children.



12. The functions and responsibilities of the Committees, as prescribed under Section 30 of the Act of 2015, encompass a wide range of duties, including taking cognisance of and receiving the children produced, conducting inquiries on issues related to the safety and well-being of the children, directing social investigations by Child Welfare Officers or probation officers, and submitting reports before the Committee. The Committees are responsible for declaring fit persons for the care of children in need of care and protection, directing placement in foster care, ensuring care, protection, rehabilitation, or restoration of children based on individual care plans, and issuing necessary directions to parents, guardians, fit persons, or relevant facilities. The Committees play a crucial role in selecting registered institutions for the placement of children requiring institutional support, conducting regular inspections of residential facilities, and recommending improvements in service quality. The Committees are involved in restoration efforts for abandoned or lost children, declaration of orphan, abandoned, and surrendered children as legally free for adoption, and taking *suo motu* cognisance of cases involving children not presented before the Committee. The Committees look into cases referred by the Board, coordinate with police, labour departments, and other agencies for child protection, conduct inquiries and issue directions to relevant authorities in cases of abuse in childcare institutions. The Committees are also instrumental in accessing legal services for children and perform various other functions and responsibilities as prescribed. Under Section 31 of the Act of 2015, any child in need of care and protection may be produced



before the Committee. Under Section 36 of the Act of 2015, on the production of a child or receipt of a report under Section 31, the Committee has to send the child to the children's home or shelter home or a fit facility or fit person and for speedy social investigation by a social worker or Child Welfare Officer or Child Welfare Police Officer. All children below six years of age who are orphans, surrendered or appear to be abandoned have to be placed with a Specialised Adoption Agency. If the Committee is of the opinion that the child has no family or support or needs care and protection, it may send the child to a Specialised Adoption Agency.

13. Therefore, the object, selection and functioning of the Child Welfare Committees would show why the Legislature has placed a negative mandate of not appointing a person as the Child Welfare Committee member unless, apart from other qualifications, the applicant has active experience in health, education or welfare activities of children for seven years. This is also clear from the fact that the Selection Committee under Rule 87 of the Rules of 2016 is to be headed by a retired Judge of the High Court as the Chairperson. This is to emphasise the importance of manning the authorities under the Act of 2015 with qualified and experienced individuals who would be able to dedicate themselves to the cause of enumerating the plight of children in need.

14. Considering the negative mandate of Section 27(4) of the Act of 2015, read with Rule 8(2) of the Rules of 2017, the experience of seven years must be construed as having been actively involved and



engaged in the measures relating to child welfare as a predominant object and not as a peripheral requirement. Many professions or activities may involve children as one of the components of the class with which the applicant may deal. However, the experience under Section 27(4) of the Act of 2015 and Rule 8(2) of the Rules of 2017 is an 'active involvement' with measures relating to 'child welfare'. The insistence on the phrase 'actively involved' is to exclude passive involvement of being present but not engaging meaningfully.

15. With that, we examine whether the experience of Respondent No. 8 fulfils the criteria under Section 27(4) of the Act of 2015 and Rule 8(2) of the Rules of 2017.

16. In the record produced by the State, the qualifications of Respondent No. 8 are shown as a Degree in Physiotherapy, nine years of experience as Project Director for children at Limrah Health Connection Pvt. Ltd., and one year of volunteer as National General Secretary at the International Human Rights Commission. The Appellant has contended that he has obtained documents under the Right to Information Act, 2005, which showed that there is nothing to show that Respondent No. 8 has the requisite experience in the child-related fields. The Appellant further contended that Respondent No. 8 was selected only on the premise of work experience as Project Director at Limrah Health Connection Pvt. Ltd. It is submitted that the operation of Limrah Health Connection Pvt. Ltd. showed that it is a private limited company established to conduct medical tourism and does not have anything about the development or welfare of the



children. The Appellant also contended that the profile of Respondent No. 8, downloaded from the internet, would show that his work at Limrah Health Connection Pvt. Ltd. involved handling medical insurance company claims for finding frauds, and this does not enable Respondent No. 8 to claim that he has the requisite statutory prescribed qualification.

17. The contention of the learned Senior Government Pleader is that the selection process was duly conducted, the comparative merit of the candidates was examined, and the Committee, after the interview, found Respondent No. 8 suitable. Regarding the stand of Respondent No. 8, the learned counsel for Respondent No. 8 relied upon the certificate issued by the Managing Director of Limrah Health Connection Pvt. Ltd. In the counter affidavit filed by Respondent No. 8, from paragraphs 1 to 8, he has reproduced the prayers, then reference is made to the statutory provisions, and as regards his own qualifications, he has stated that he has a certificate issued from CMJ University, Meghalaya. He states that he is a Physiotherapist by profession with experience of more than 24 years and has worked as Director of Operations in Karnataka and Andhra Pradesh for child development projects under Limrah Health Connection Pvt. Ltd. These are the basic documents with which we are concerned.

18. The counter affidavit filed by Respondent No. 8 is sketchy. His experience is dealt with only in one paragraph, i.e. paragraph 9, which reads as follows:-

“9. I am having master Degree in Social Work (MSW). The



*true copy of the certificate issued from CMJ University, Meghalaya is produced herewith and marked as **Exhibit R8(a)**. I am a Physiotherapist by profession having experience for more than 24 years. The true copy of the certificate issued from Rajiv Gandhi University of Health Sciences, Karnataka is produced herewith and marked as **Exhibit R8 (b)**. I worked as Director of Operations in Karnataka and Andhra Pradesh for child development project under “Limrah Health Connection Pvt; Ltd”. The true copy of the certificate issued by the Managing Director “Limrah Health Connection Pvt; Ltd” is produced herewith and marked as **Exhibit R8 (c)**.”*

This is all Respondent No. 8 has to say about his actual experience in the field.

19. At the time of the interview, Respondent No. 8 had produced the certificate stating that he is the Project Director of Limrah Health Connection Pvt. Ltd. related to children. He has changed that version. In the counter affidavit filed by Respondent No. 8, he states that he worked as Director of Operations in Karnataka and Andhra Pradesh. The earlier one had no such reference. No details of the work carried out, such as names, places, etc., are placed on record. The certificate now produced is doubtful. The certificate issued to him by another director – a colleague – Mr Muhammed Mustafa, is vague and does not convey that Respondent No. 8 performed duties of child welfare and child-related activities.

20. By filing two affidavits, the Appellant has pointed out that Limrah Health Connection Pvt. Ltd. is registered under the Indian Companies Act, 2013 for doing business in Medical Tourism and



Medical Insurance. The details of the directors are also placed on record. There are only two directors in the company. One is Respondent No. 8, and the other is Mr. Muhammed Mustafa. Mr. Muhammed Mustafa has given a certificate that Respondent No. 8 worked on a child development project in the company from 2013 to 2021, and his job description includes development outcomes for every child by promoting awareness, grading the children, conducting counselling classes, etc. The Memorandum of Association of Limrah Health Connection Pvt. Ltd. is on record. The main objects of the company are health care services, medical tourism, health care research activity, rural health care for mass, health education and others. As pointed out by the Appellant, a company can undertake only those activities mentioned in the Memorandum of Association. Memorandum of Association proves that Limrah Health Connection Pvt. Ltd. company has no work related to planning and administering child welfare activities.

21. Therefore, all that is on record in respect of Respondent No. 8 is that he is a Physiotherapist by profession, and he is one of the two directors of one Limrah Health Connection Pvt. Ltd., a company in the field of Medical Tourism and Medical Insurance. Except for this letter of recommendation written by his colleague, the other director, saying that he has experience, absolutely no details are on record regarding the active work of Respondent No. 8, which were at least expected when the Appellant had challenged the order. Material showing the work referred to in the certificate could have been elaborated and



produced. Quite obviously, this certificate is not sufficient. The Selection Committee has not bothered to scrutinise this aspect.

22. The Selection Committee has glossed over the crucial aspect of the necessity of being actively involved in the activities. The reason actual experience is insisted upon can be found in the scheme of the Act of 2015, its Statement of Objects and Reasons. Article 15 of the Constitution of India, *inter alia*, empowers the State to make special provisions for children. Articles 39(e) and (f), 45, and 47 further impose a responsibility on the State to ensure that all needs of children are met and their basic human rights are protected. The United Nations Convention on the Rights of the Child, ratified by India on 11 December 1992, requires State Parties to undertake all appropriate measures in respect of a child alleged or accused of violating any penal law, including treatment of the child in a manner consistent with the promotion of the child's sense of dignity and worth, reinforcing the child's respect for the human rights and fundamental freedoms of others, and taking into account the child's age and the desirability of promoting the child's reintegration and assuming a constructive role in society. The Juvenile Justice (Care and Protection of Children) Act of 2000 was enacted to provide for the protection of children. The Act was amended in 2006 and 2011 to address implementation gaps and make the law more child-friendly. However, several issues arose during implementation, including increasing incidents of abuse of children in institutions, inadequate facilities, poor quality of care and rehabilitation measures in Homes, high pendency of cases, delays in adoption, etc.



The data collected by the National Crime Records Bureau establishes that crimes committed by children in the said age group have increased. Therefore, a need was felt for re-examination of the legal provision, and the Act of 2015 was enacted. The Act of 2015 emphasizes the enhanced role of the Child Welfare Committees and confers various powers and duties. It is to perform these duties effectively that actual involvement on the part of the members is insisted upon. Unfortunately, the Selection Committee has not scrutinised whether Respondent No. 8 has the requisite experience as mandated under the Act of 2015 and the Rules of 2017. While adopting a pedantic approach, the reason for prescribing actual involvement is lost sight of.

23. The State has placed neither the application form of Respondent No. 8 nor the minutes of the Committee meeting before the Single Judge or before us. Once the requisite experience is absent as prescribed under the statute, there is no question of giving deference to the wisdom of the Selection Committee. It is clear from the record that Respondent No. 8 had produced no material stating that he was actively involved in the activities pertaining to children. The record itself demonstrates that Respondent No. 8 does not possess the requisite experience as per Section 27(4) of the Act of 2015 read with Rule 8(2) of the Rules of 2017, that is, the experience of seven years having been actively involved and engaged in the measures relating to child welfare. Therefore, the appointment of Respondent No. 8 is liable to be quashed and set aside.

24. This brings us to the second component as to whether the



Appellant should be appointed.

25. As far as the Appellant's experience is concerned, the Appellant has annexed all the requisite documents. The Appellant has contended that he is a holder of an M.A. in Clinical Psychology, a PG Diploma in Counselling Psychology, a PG Diploma in Life Skills Education, and a B. Com. In the year 2022, he also passed an M. Phil. in Psychology. He also has 28 years of experience in the Social Justice Department, of which 10 years he worked in the Child Development Office under the Integrated Child Development Scheme (ICDS). ICDS offices are sanctioned by the Central Government, one for each block. In a block, there are 35 to a maximum of 45 Anganwadis. The functions of the Centres are planned, implemented and administrated by the Child Development Office according to the guidelines of the Central and State Governments. The qualifications of the Appellant have been detailed in the reply affidavit, which reads as follows:-

“9. I am the holder of M.A. Clinical Psychology, P.G. Diploma in Counselling Psychology, P.G. Diploma in Life Skills Education and B.Com. In the year 2022, I have passed M.Phil in Psychology also. Except the certificate of M.Phil Degree in Psychology the copies of all other educational qualifications were included the writ petition. I have also experience of 28 years in Social Justice Department and in which 10 years I have worked in Child Development Office under Integrated Child Development Scheme (ICDS). ICDS offices are sanctioned by Central Government one for each block. In a block there are 35 to maximum 45 Anganavadies. The functions of the centers are planned, implemented and administrated by the Child development office according to the guide lines of Central and State Government.”



The Appellant has also stated as follows:-

“On my credit Post Graduate Degree in Psychology and 10 years experience in Child Development Project Office (ICDS) the required qualification as per Notification. I have additional qualifications M.Phil. in Psychology, Post Graduate Diploma in Counselling Psychology, Post Graduate Diploma in Life skills Education and B.com Degree. I, the petitioner has got rich and prolonged experience in the behavioural study of children as I had been employed in the erstwhile Social Justice Department which is the predecessor of Women & Child Welfare Department and thereby having on my credit unblemished service of 27 years. This is to submit that I had worked in Integrated Child Development Project for a period of 10 years and thereby gathered great experience in evaluating and analysing the behaviour of children. I have got institutional experience by working in non-government organizations in administration/guidance/counselling for a period of 3 years from 15.12.2012 to 31.12.2015 at “Sarvathrika Sahodarya Samthi Reg. No. 90/96” which is a registered organization for the welfare and wellbeing of women and children. I also worked at “Ashraya Charitable Society Reg. No. Q537/96” which is the destitute home of more than 1000 inmates including 200 children. The petitioner has worked there for 3 years from 2016 to 2019 as counsellor of students without taking a single penny as salary. I had also worked at “New Blossom Public School” in administration/counselling / guidance for a period of 1 year from June 2020 to June 2021.”

The Appellant's assertions regarding his experience are not denied in the pleadings, though Respondent No. 8 in the oral argument advanced some contentions.

26. Therefore, the Appellant has the requisite educational qualifications, including an M.A. in Clinical Psychology. He has 28



years of experience in the Women and Child Welfare Department (erstwhile Social Justice Department), of which he had worked for 10 years in the Child Development Office under the Integrated Child Development Scheme. He has worked with various Anganwadis and has also worked with various Non-Governmental Organizations, destitute homes for children and as a Councillor for students. We refer to this experience only to emphasise that the Appellant possesses the required experience of actual involvement that we have emphasised and interpreted above.

27. The tenure of the Child Welfare Committee is for three years, i.e. three years from the date of notification, i.e. from 16 June 2022 to 16 June 2025. As per Rule 9(4) of the Rules of 2017, any vacancy in the Committee can be filled up by appointment of another person from the panel, and the panel can continue for a period not exceeding three years. Rule 9 reads thus:-

“9. Tenure of the Committee.- (1) The term of office of the Chairperson and members of the Committee shall not be for a period of more than three years from the date of their appointment.

(2) The Chairperson and members of the Committee shall be eligible for appointment for a period not exceeding three years.

(3) The Chairperson and members of the Committee may resign at any time by giving one month's notice in writing to the Government, but shall hold office until his resignation is accepted by the Government.

(4) Any vacancy in the Committee shall be filled up by appointment of another person from the panel



prepared by the Selection Committee and shall continue as such for a period not exceeding three years.”

(emphasis supplied)

Rule 9(4) of the Rules of 2017 states that any vacancy in the Committee can be filled by appointment of another person from the panel, and the panel continues for a period not exceeding three years. The Appellant is already next in the select list. Three years of the list prepared in June 2022 are not over. Under the statutory rule itself, the Appellant is entitled to be appointed in case of a vacancy and therefore, as a consequence of setting aside the appointment of Respondent No. 8, direction can be issued to the Respondent State to appoint the Appellant who is on the select list as per Rule 9(4) of the Rules of 2017.

28. The Appellant has stated in the affidavit that having no proper guidance, there was a delay. He stated that he had engaged Advocates who initially did not join Respondent No. 8 as a party, which caused time to be lost, and ultimately, the Appellant chose to appear in the matter himself. The writ petition was filed on 26 June 2022, immediately after the notification reconstituting the Child Welfare Committees issued on 16 June 2022. The writ petition was disposed of two years thereafter, on 2 September 2024. The appeal was filed on 27 September 2024, and when it came on Board, the learned counsel who appeared for Respondent No. 8 before the learned Single Judge stated that he had no instructions and notice had to be issued to Respondent No. 8, and therefore, the matter has reached such a stage that despite the Appellant approaching in time, out of three years, substantial



period is lost in this Court. However, it is the contention of the Appellant that for the remaining period of the tenure, the Appellant be appointed and also to vindicate the cause he has prosecuted. There is no debate before us that the Appellant is immediately next on the waiting list of the Child Welfare Committee members. The Appellant has been found eligible and placed on the waiting list. As far as his qualifications are concerned, the same cannot be disputed. Therefore, there is no impediment to appoint him in the vacancy.

29. As a result of the discussion, the Appellant is entitled to succeed. The impugned order passed by the learned Single Judge dated 2 September 2024 is quashed and set aside, and W.P.(C) No. 21014 of 2022 is allowed. The appointment of Respondent No. 8 as a member of the Child Welfare Committee, Kollam, is quashed and set aside. Consequently, the Appellant is declared eligible to be appointed as a member of the Child Welfare Committee, Kollam. Respondent Nos. 1 and 2 shall issue necessary orders to the Appellant in that regard within one week from today.

30. Before parting, we again emphasise the need to carefully select members of the Child Welfare Committee. These Committees are a crucial component for implementing the Juvenile Justice Act. The purpose of establishing the Child Welfare Committee and its functions requires its members to adopt a sensitive approach. The members must have a deep understanding of the matters concerning children. Therefore, a person actively involved in the health, education and welfare activities of children through his experience can make a



difference in the functioning of the Committee. Conversely, a person lacking ground-level experience may hinder the effective functioning of the Committee. The Juvenile Justice Act is more than a legal framework; it is a protective mechanism for vulnerable children. The members of the Child Welfare Committee make critical decisions on shelter, adoption, foster care, and repatriation—decisions that shape young lives. Therefore, the Selection Authority must give primacy to those candidates with genuine, direct experience in child protection work—whether through social work, psychology, rehabilitation programs, or law enforcement. Only then can the Child Welfare Committees function with the empathy, insight, and competence to protect and support children in need.

31. The appeal is allowed in the above terms.

Sd/-
NITIN JAMDAR,
CHIEF JUSTICE

Sd/-
S. MANU,
JUDGE