

B. Sudharma vs State Of Kerala on 28 January, 2021

Equivalent citations: AIRONLINE 2021 KER 119

Author: Shaji P.Chaly

Bench: S.Manikumar, Shaji P.Chaly

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

THURSDAY, THE 28TH DAY OF JANUARY 2021 / 8TH MAGHA, 1942

WP(C).No.35220 OF 2019(S)

PETITIONERS:

- 1 B. SUDHARMA,
 AGED 58 YEARS
 TMC 36/580, NAYANI SHARANYAM, MANATH AYYATHMOOLA
 ROAD, TRIKKAKARA, KOCHI - 682 021.
 - 2 JOSEPH SHAJI GEORGE,
 JISHA COTTAGE, NEAR R.C.CHURCH,
 KAYAMKULAM - 690 502.
 - 3 ASOKAN V.N.,
 ALATHIRIPARAMBIL HOUSE, CHERANALLOOR,
 KOCHI - 682 034.
 - 4 RAMACHANDRAN C.P.,
 VENGALIL, CHUNANGAD, OTTAPPALAM - 679 511.
- BY ADVS.
SRI.T.V.AJAYAKUMAR
KUM.P.H.RIMJU

RESPONDENTS:

- 1 STATE OF KERALA,
 REPRESENTED BY THE CHIEF SECRETARY, SECRETARIAT,
 THIRUVANANTHAPURAM - 695 001.

2 THE SECRETARY TO THE GOVERNMENT OF KERALA,
HEALTH AND FAMILY WELFARE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.

3 THE ACCOUNTANT GENERAL (A AND E),
KERALA, THIRUVANANTHAPURAM - 695 001.

4 KERALA PUBLIC SERVICE COMMISSION,
REPRESENTED BY ITS SECRETARY, PATTOM,
THIRUVANANTHAPURAM - 695 014.

WP(C).No.35220 OF 2019(S) 2

5 COMMISSIONER OF FOOD SAFETY,
COMMISSIONERATE OF FOOD SAFETY, THYCAUD,
THIRUVANANTHAPURAM - 695 014.

6 K.ANILKUMAR,
JOINT FOOD SAFETY COMMISSIONER (ADMINISTRATION AND
LEGAL), COMMISSIONERATE OF FOOD SAFETY, THYCAUD,
THIRUVANANTHAPURAM - 695 014.

R1 TO R3 & R5 BY SRI.RANJITH THAMPAN, ADDL.ADVOCATE
GENERAL AND SRI.Y.JAFFAR KHAN, GOVERNMENT PLEADER
SRI.P.C.SASIDHARAN, STANDING COUNSEL FOR R4,
SRI.P.NANDAKUMAR FOR R6

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-
01-2021, THE COURT ON 28-01-2021 DELIVERED THE FOLLOWING:

WP(C).No.35220 OF 2019(S) 3

CR

JUDGMENT

Dated this the 28th day of January,2021 SHAJI P.CHALY,J This is a Public Interest Litigation filed by the petitioners, who were retired as Additional/Assistant Commissioners of Food Safety under the 1 st respondent State of Kerala, seeking a Writ of Quo Warranto against the 6th respondent, functioning in the post of Joint Food Safety Commissioner (Administration & Legal), questioning his authority for holding the aforesaid post and further to declare that the 6th respondent is unqualified and incompetent to hold the post of Joint Food Safety Commissioner (Administration & Legal) and that he is not duly appointed to the above post in the Commissionerate of Food Safety as per the Food Safety and Standards Act, 2006, hereinafter called, 'Act, 2006'.

2. Brief material facts for the disposal of the writ petition are as follows; according to the petitioners, they are highly aggrieved by the unlawful holding of a public office by the 6th respondent, who is unqualified and not duly appointed to the above post. The 6 th respondent was appointed to the post of Technical Assistant (Legal) in the Health Department as per Ext.P1 order dated 17.12.1999. The

said post was re-designated as Law Officer - Prevention of Food Adulteration (PFA) as per Ext P2 order dated 30-03-2001 and the pay was re-fixed. After the Act, 2006 was enacted, the 6th respondent was assigned the work of Joint Commissioner of Food Safety (Administration & Legal) and directed to act in the above functional post as a temporary arrangement during the transition period from PFA Act to Food Safety and Standards Act as per Ext.P9 Government Order dated 17.2.2010. According to the petitioners, no qualification and method of appointment to the aforesaid post has been prescribed either by Special Rules or by executive orders by the Government till now, evident from Exts.P18 reply given by the State Public Information Officer of the Health and Family Welfare Department dated 1.12.2018.

3. It is also the case of the petitioners that the 6 th respondent is not qualified and eligible to be appointed to the above post even on the basis of the qualification prescribed for the subordinate post of Food Safety Officer stipulated by the Food Safety and Standard Rules, 2011, hereinafter called, 'Rules, 2011', or on the basis of Ext.P13 Government Order dated 26.9.2014 prescribing qualification for the equivalent post of Joint Commissioner of Food Safety (Enforcement) or the subordinate post of Assistant Commissioner of Food Safety, Food Safety Officer, like Degree in Food Technology/Dairy Technology etc. However, the 6th respondent has been continuously holding the post since 18.2.2010 without legal authority, even after the Food Safety Rules came into force w.e.f. 5. 8.2011, which action, according to the petitioners, is absolutely arbitrary and illegal. It is also stated that the 6th respondent was put in full additional charge of Commissioner of Food Safety on that basis, which is also illegal.

4. The sum and substance of the contention of the petitioners is that the 6th respondent is an usurper to the post and it is just and necessary that a Writ of Quo Warranto is issued against him in view of the law laid down by the Apex Court in Dr.Kashinath G. Jalmi & Another v. the Speaker & others [(1993)2 SCC 703, B.R.Kapur v. State of Tamil Nadu & Another [(2001) 7 SCC 231], Rajesh Awasthi v. Nand Lal Jaiswal & Others [(2013)1 SCC 501], Central Electricity Supply Utility of Odisha v. Dhobei Sahoo & others [(2014)1 SCC 161]. It is also the legal contention of the petitioners that the 6th respondent is holding the post unlawfully and in violation of Article 320(3) of the Constitution of India and Rules 10, 18 and 28(b)(i) of the Kerala State and Subordinate Service Rules (KS&SSR).

5. The 6th respondent has filed a detailed counter affidavit refuting the allegations and claim and demands raised by the petitioners. Among other contentions it is submitted that there were litigations between petitioners 1 to 3 and 6th respondent before various courts with regard to various service benefits. Sixth respondent had filed W.P(C) No. 13754 of 2011 against the promotion granted to the 1st petitioner as Additional Commissioner of Food Safety and placing her above the 6th respondent in service. The 1st petitioner had also filed W.P(C) No.11843 of 2011 before this Court seeking retrospective promotion. Both these cases were subsequently transferred to the Kerala Administrative Tribunal, when it was established.

6. In the meantime, the Government cancelled the promotion granted to the 1st petitioner as Deputy Director (PFA) as per G.O(Rt) No. 1359/2011/H&FWD dated 07.04.2011. The 1 st petitioner retired from service on superannuation later and the transferred applications were closed by the Tribunal as per order dated 09.10.2017 evident from Ext.R6(a). The 1st petitioner was seriously aggrieved

against the cancellation of her promotion order, which she believed at the instance of 6th respondent.

7. With regard to the 2nd petitioner, it was submitted that he was placed under suspension by the Commissioner of Food Safety alleging serious misconduct and was later imposed with a penalty of increment bar and for that reason, his terminal benefits were delayed. Contending that the 6th respondent was the reason for delaying his terminal benefits, the 2nd petitioner filed O.A(EKM) No. 628 of 2018 before the Kerala Administrative Tribunal making the 6th respondent also a party in the proceedings and the Tribunal by order dated 07.01.2020 directed to release the DCRG due to the 2nd petitioner.

8. In the meantime, the 2nd petitioner has also filed various petitions against the 6th respondent before the Government as well as the Vigilance Department with unsubstantiated allegations. As regards the 3rd petitioner, he has also filed O.A(EKM) No.378 of 2017 raising various allegations against the 6th respondent including that the 6th respondent caused delay in granting promotion to the 3rd petitioner as Assistant Commissioner of Food Safety.

9. The 4th petitioner is also in inimical terms with the 6th respondent due to various official actions taken by the 6th respondent against him. Therefore, it was contended that all these petitioners have joined together against the 6th respondent with malafide intentions and have filed the instant writ petition. It is submitted that the intention of the petitioners is highly malicious, to tarnish the image of the 6th respondent, who has been occupying the post of Joint Food Safety Commissioner (Administration and Legal) for the last 10 years by misusing the writ jurisdiction of this Court and for this reason alone, the instant writ petition is liable to be dismissed.

10. It is also submitted that the 6th respondent was originally appointed as Technical Assistant (Legal) in the Directorate of Health Services upon selection by the Kerala Public Service Commission as per Exhibit P1 order dated 17.12.1999. The qualification prescribed for the post of Technical Assistant (Legal) is a degree in law with minimum five years practice at the Bar. The post of Technical Assistant (Legal) is an isolated post in the Prevention of Food Adulteration Wing under the Directorate of Health Services. At the time of his appointment as Technical Assistant (Legal), 6th respondent was having more than 10 years experience at the Bar and also having Post Graduate Degree in Law. Thereafter, the Director of Health Services furnished a proposal to the Government to re-fix the scale of pay of the post of Technical Assistant (Legal) in the Health Services Department and to re-designate the post as Law Officer (Prevention of Food Adulteration), which was approved by the Council of Ministers and it was accordingly the Government issued Exhibit P2 G.O(Rt) No. 926/2001/H&FWD dated 30.03.2001.

11. While working as Law Officer (Prevention of Food Adulteration), the 6th respondent was also deputed in full additional charge of the post of Registrar, Travancore Cochin Medical Council & Kerala Nurses and Midwives Council as per G.O(Rt) No.2547/2003/H&FWD dated 27.08.2003. Considering his administrative skills, 6th respondent was also deputed as Administrator and Secretary, Guruvayur Devaswom Managing Committee as per G.O (Rt) No. 3201/2003/RD dated 17.10.2003.

12. While so, the Government of India promulgated the Food Safety and Standards Act, 2006 and as per Ext.P8 G.O(Rt)No.3466/o8/H&FWD dated 20.10.2008 it was ordered that the service of the 6 th respondent under the Directorate of Health Services be utilized as the Special officer for implementing the Food Safety Act, under the control of the State Food Safety Commissioner. Later, the Government by Ext.P6 G.O(Ms)No.123/2009/H&FWD dated 23.05.2009 ordered that as the first step for implementing the Food Safety and Standards Act, 2006, the PFA wing at the Directorate of Health Services including all enforcement staff, laboratory staff and ministerial staff were placed under the administrative, statutory, financial control of the Commissioner of Food Safety. The Government also issued, Ext.P7 G.O(Ms)No.122/2009/H&FWD dated 23.05.2009 ordering that the 6 th respondent will function as Officer on Special Duty for setting up the Office of the Commissioner of Food Safety as per Food Safety and Standards Act, 2006.

13. In the meeting held in the year 2010 the Central Advisory Committee under the Food Safety and Standards Act, had suggested a structure of Food Safety set up in the states for the implementation of the Act in the true spirit. As such, it was suggested to set up a Food Safety Cadre with Joint Food Safety Commissioners (Administration/Enforcement/Training and Development/Legal) and other designated officers. Consequently, the Government as per Ext.P9 G.O(Rt) No.578/2010/H&FWD dated 17.02.2010 decided to form four functional wings ie (1) Enforcement Wing (2) Food Safety Laboratory (3) Administration and Legal and (4) Research & Development and Training.

14. It was also decided that each of the above wings would be headed by a Joint Food Safety Commissioner under the Commissioner of Food Safety. By the very same order, the Government also assigned the work of Joint Food Safety Commissioners to various Officers including the 6 th respondent. Consequently, the Commissioner of Food Safety by Ext.P20 order dated 09.03.2010 delegated powers to various Joint Food Safety Commissioners including Joint Food Safety Commissioner (Administration and Legal). Sixth respondent, who was then working as Officer on Special Duty (Food Safety) and Law Officer (PFA), was ordered to act as Joint Food Safety Commissioner (Administration and Legal). The Government, also by Exhibit P10 G.O (Rt) No.2483/2010/Fin dated 29.03.2010, authorized the Joint Food Safety Commissioner (Administration and Legal) as Drawing and Disbursing Officer in the Commissionerate of Food Safety. The Commissioner of Food Safety by Exhibit P11 letter dated 21.04.2010 also forwarded the RTC of the 6 th respondent after having taken charge in the post of Joint Food Safety Commissioner (Administration and Legal).

15. Thereafter, in order to effectively implement the Act, 2006 in the State, a meeting was held at the highest level on 13.09.2012 and two posts of Joint Commissioners were created as per Exhibit P12 G.O(Ms) No. 24/2012/H&FWD dated 02.02.2013. Subsequently, the probation of the 6 th respondent in the cadre of Joint Commissioner of Food Safety (Administration and Legal) was declared as per Exhibit P16 G.O(Rt) No.1775/2014/H&FWD dated 30.05.2014.

16. It is further submitted that the 1st petitioner retired from service as Deputy Director (PFA) and not as Additional Commissioner of Food Safety, as contended. The further contention that they had meritorious and dedicated service is also made without any basis. As stated earlier, there were various proceedings against petitioners 1 to 3, including Vigilance proceedings. The statement that

they are much concerned about Public Health and Food Safety and for that purpose the instant writ petition is filed challenging the appointment of the 6th respondent as Joint Commissioner of Food Safety is also made without any bonafides. The intention of the petitioners is only private interest, and a targeted attack against the 6th respondent after their retirement from service.

17. It is further submitted that the post of Technical Assistant (Legal), which is a first gazetted post in the Directorate of Health Services, was upgraded and re-designated as Law Officer (PFA) by the decision of the Council of Ministers. Now, the petitioners are even contending that the proposal of the Director of Health Services for upgrading the post of Technical Assistant (Legal) is incorrect, which has nothing to do with the subject matter of the above case. The petitioners are even questioning the wisdom of the Council of Ministers in taking a decision, which occurred about 19 years back. The post of Law Officer (PFA) is the re-designated post of Technical Assistant (Legal) and therefore, no separate qualification and method of appointment was prescribed by the Government. The probation of the 6th respondent in the post of Law Officer (PFA) was also successfully declared. Now, the complaint of the petitioners is that there is no rhyme and reason for enhancing the pay of the Technical Assistant (Legal).

18. The further statement that the 6th respondent sought and obtained deputation as Administrator, Guruvayur Devaswom is also incorrect. Sixth respondent was selected as Administrator by the Guruvayur Devaswom Managing Committee, which requested the Government to issue necessary orders to depute the 6th respondent as Administrator. When the 6th respondent was deputed as Administrator of Guruvayur Devaswom, another person with Law degree was given full additional charge of the post of Law Officer (PFA).

19. The post of Joint Commissioner of Food Safety (Administration and Legal) is not a statutory post under the Food Safety and Standards Act or Rules. The said post was created by the Government for administrative convenience and to cater to the legal needs of the department. Even the posts occupied by the petitioners i.e., Assistant Commissioner of Food Safety is not a statutory post. As per the various provisions contained in the Food Safety and Standards Act, only the posts of Commissioner of Food Safety, appointed under Section 30, Designated Officers appointed under Section 36, Food Analysts appointed under Section 45 and Food Safety Officers appointed under Section 37 of the Act, 2006 have been prescribed.

20. Since the post of Joint Commissioner (Administration and Legal) is not a post coming under the Food Safety and Standards Act, the qualification and method of appointment will not be prescribed in the Rules made under the Act, 2006. As stated earlier, while bifurcating the PFA wing under the Directorate of Health Services, and forming the new Commissionerate, all the existing employees under the erstwhile PFA wing were inducted into the newly created Food Safety Commissionerate. In order to accommodate the 6th respondent, who was working as Law Officer (PFA) in the PFA wing of the Directorate of Health Services to the Food Safety Commissionerate, considering his qualification, experience and administrative capacity, the 6th respondent was originally posted as Special Officer to implement the FSS Act in the State and later as Officer on Special Duty. Thereafter, on creating the temporary post of Joint Commissioner of Food Safety (Administration and Legal), the 6th respondent was put in charge and later on making the post permanent, his

probation was also declared. Since, the Government in its wisdom thought it fit to accommodate the 6 th respondent as Joint Commissioner of Food Safety (Administration and Legal), considering various factors and no separate qualification or method of appointment was also prescribed.

21. The question of prescribing new qualification and method of appointment to the post of Joint Commissioner of Food Safety (Administration and Legal) will arise only when the 6 th respondent vacates the post and the Government intends to fill up the said post with a new incumbent. The petitioners cannot contend that the Government cannot create, abolish or upgrade a post in its wisdom and appoint competent officers it thinks fit. The Government has the authority to prescribe the method of appointment and qualifications to a post. Only if an appointment is made in contravention of the existing statutory rules, the petitioners can complain of violation of a rule and consequential illegality in an appointment. The petitioners have no case that the appointment of the 6th respondent is in violation of any statutory rules. For this reason alone, a Writ of Quo Warranto will not lie against the appointment of the 6th respondent as Joint Commissioner of Food Safety (Administration and Legal).

22. Further it was submitted that the question of consultation with the Kerala Public Service Commission arises only, if appointments are made by direct recruitment. Only the post of Food Safety Officer is filled up by direct recruitment, for which the qualification is prescribed under the Rules, 2011 and later by issuing an executive order by the Government. The post of Joint Commissioner of Food Safety (Enforcement) and Assistant Commissioner of Food Safety are promotion posts from the feeder category of Food Safety Officers. It was in that circumstances, that qualifications and method of appointment were prescribed by executive orders. No new qualification is also prescribed for the post of Joint Commissioners and Assistant Commissioners other than what has been prescribed for the post of Food Safety Officers as per the Central Rules.

23. As stated earlier, the post of Law Officer (PFA) was an isolated post in the PFA wing of the Directorate of Health Services, which was also absorbed in the Food Safety Commissionerate. There is no other incumbent in the Food Safety Commissionerate, who is qualified in law along with Bar experience, to occupy the post of Joint Food Safety Commissioner (Administration and Legal). Ext.P13 G.O is only an executive order for making appointments to the post of Joint Commissioner of Food Safety (Enforcement) and Assistant Commissioners, for which there are large number of qualified hands. The incumbent, who holds the post of Joint Commissioner of Food Safety (Administration and Legal), is not supposed to conduct any enforcement activities under the provisions of the Food Safety and Standards Act and therefore, no separate qualification is prescribed under the Act or the Rules. Whereas, the incumbents, who hold the post of Joint Commissioner (Enforcement), and Assistant Commissioners, are expected to enforce the provisions of the Act, 2006 and the rules thereto and even, these posts are not statutory posts under the Act, 2006 or the Rules. Exhibit P15 order has not been implemented at all in the department and no person has been appointed as Technical Assistant (Legal) in the Food Safety Commissionerate pursuant to the said order.

24. From a mere reading of the qualifications prescribed in the said order, it can be seen that only lesser experience is sought for than the previous qualifications prescribed for the post of Technical

Assistant (Legal) in the Directorate of Health Services. Sixth respondent was not transferred to the new department from the post of Technical Assistant (Legal) but from the post of Law Officer (PFA), which is a post equivalent to the cadre of Under Secretary to Government. Now, the petitioners are relying on the opinions given under the RTI Act to impress upon this Court to claim that the 6 th respondent is not eligible to hold the post of Joint Commissioner of Food Safety (Administration and Legal).

25. There were departmental actions against petitioners 1 to 3 and for that reason their terminal benefits were delayed. Now, owing to that delay in disbursal of their terminal benefits, the petitioners are challenging the very appointment of the 6th respondent, who was their Drawing and Disbursing Officer, while they were in service. For that purpose, the petitioners have been submitting various frivolous and unsustainable complaints before different authorities, who on examination of their complaints, found that the same is unsubstantiated and unsustainable. Having failed in their attempts to malign the 6th respondent, the petitioners are conducting a witch hunt against the 6 th respondent by abusing the process of writ jurisdiction of this Court, is the contention.

26. It was further submitted that the petitioners have not pointed out that the appointment of the 6 th respondent as Joint Commissioner of Food Safety (Administration and Legal) is in violation of any statutory rule. It is settled law that a Writ of Quo Warranto will lie only if the alleged appointment is in violation of any statutory provision to a statutory post. The Government has found that the 6th respondent is competent to hold the post of Joint Commissioner of Food Safety (Administration and Legal). Even in the absence of any Special Rules or executive orders prescribing the qualification and method of appointment to a post, the Government is well within its authority to appoint a person to a post without any prescribed qualification or method of appointment. Such an appointment cannot be the subject matter in a Writ of Quo Warranto.

27. It was further submitted Apex Court in various decisions has held that a Writ of Quo Warranto should be refused where it is an outcome of malice or ill will. The conduct of the petitioners will definitely show that the very purpose of filing the above Writ Petition is only to malign and tarnish the reputation of the 6th respondent; that only a person who comes to the Court with bonafides and public interest can have the locus standi to seek the writ of quo warranto. Therefore, no relief could be granted to the petitioners in the above proceedings, is the contention .

28. It was submitted that the 6th respondent had an unblemished career for the past 20 years and has been awarded multiple accolades for his selfless service and devotion to duty. He has also produced Ext.R6(b) letter dated 26.9.2013 issued by the Food Safety and Standards Authority of India recognising the steps taken by the 6th respondent in propagating and helping to implement the objective laid down under the Act, 2006 and the Rules thereto. The State and the Secretary to the Government of Kerala, Health and Family Welfare Department, have filed a joint counter affidavit basically submitting that the prevention of food adulteration wing has to have the support of legally trained persons and it is in these circumstances, the post of Law Officer was created in the PFA wing of the Health Department; that the Law Officer post was a standalone post in the PFA wing; that while the 6 th respondent was holding the post of Law Officer in the PFA wing, the new

statute viz., the Food Safety Standards Act, 2006 was promulgated; that consequent to the same, the entire staff of the PFA wing in the directorate of Health Services except ministerial staff was transferred to the administrative control of the Commissioner of Food Safety constituted under the Act, 2006 as per Ext.P6 order of the Government of Kerala dated 23.5.2009. Thus, the 6th respondent was also made part of the office of Commissioner of Food Safety as per Ext.P6 w.e.f. 23.05.2009.

29. It was also submitted that considering the legal implications and technicalities involved in constituting and implementation of Act, 2006, the 6 th respondent was put in additional charge as Officer on Special Duty under the Commissionerate of Food Safety as per Ext.P9 order of the State Government dated 17.2.2010.

30. According to the State Government, each of the aforesaid wing was to be created, however, as per Ext.P9 order, the Government had assigned the work of Joint Food Safety Commissioner (Enforcement) to one Usha Rani, Senior Most District Food Inspector. First petitioner in the writ petition, Smt.B.Sudharma, who was the Chief Government Analyst, was appointed as Joint Food Safety Commissioner (Food Safety Laboratory) and the 6 th respondent, who was the Officer on Special Duty (Food Safety) and Law Officer (PFA), to act as Joint Food Safety Commissioner (Administration and Legal) and these Officers were permitted to draw pay and allowances in the then existing rates and the said arrangements continued.

31. In the meanwhile, Government as per Ext.P12 order dated 2.2.2013 sanctioned two posts of Joint Commissioner i.e., (1) Joint Food Safety Commissioner (Administration & Legal) and (2) Joint Commissioner. The post of Joint Food Safety Commissioner (Administration & Legal) held by the 6 th respondent on charge arrangement from 2010 onwards was made a permanent post, apart from creating one more post of Joint Commissioner. Thereafter, as per Ext.P16 order dated 3.5.2014, the Government has declared the probation of the 6th respondent in the cadre of Joint Food Safety Commissioner (Administration & Legal) w.e.f. 18.8.2010. It is also submitted that the post of Joint Food Safety Commissioner (Administration & Legal) is not a statutory post and the 6th respondent, who was working as the Law Officer in the Prevention of Food Adulteration Wing of the Health Services Department, was put in additional charge of Joint Commissioner of Food Safety (Administration & Legal) when the new Commissionerate was formed and employees working in the erstwhile Prevention and Food Adulteration Wing of Health Services Department merged with the new Department under Act, 2006.

32. It is also submitted that all the employees working in the Prevention of Food Adulteration Wing of the Health Services Department were accommodated in the Food Safety Commissionerate in comparable posts. It was accordingly that the 6th respondent was put in additional charge of the present post. It was further submitted that there were no other qualified and competent persons for holding the said post apart from the 6 th respondent, who was put in additional charge, as such. It was in the said circumstances, no separate qualifications and method of appointment was prescribed for the post of Joint Commissioner of Food Safety (Administration & Legal). That apart a submission is made that the 6 th respondent cannot be sent back to the PFA wing of the Health Services Department as the said wing has been merged with the Food Safety Commissionerate.

33. Above all, it was contended that the 6th respondent is holding the post with authority as per Ext.P9 Government Order and therefore, the petitioners are not entitled to maintain a Writ of Quo Warranto. Other legal contentions are also raised in support of the 6th respondent.

34. Reply affidavits are filed refuting the contentions raised in the counter affidavits and have also produced additional documents. The 6 th respondent has also produced a copy of the complaint filed by the 2 nd petitioner before the Chairman of the Union Public Service Commission, New Delhi, complaining about the appointment of the 6th respondent made by the State Government and also expressing apprehension that the State Government is taking steps for conferment of Indian Administrative Services to the 6th respondent, wherein a peculiar submission is raised to the effect that, the High Court of Kerala has prima facie found that the 6th respondent is not competent to hold the post of Joint Commissioner of Food Safety (Administration & Legal), by issuing notice in this writ of quo warranto. Therefore, requested not to consider the proposal to confer IAS to K.Anilkumar, the 6th respondent, till the disposal of this writ petition. These are the basic background facts available for consideration of the writ petition. We also make it clear that our endeavour would be to consider whether a writ of quo warranto in the factual background is maintainable under law at all.

35. We have heard Sri.T.V.Ajaykumar, learned counsel for petitioners, Sri.Ranjth Thampan, learned Additional Advocate General appeared for State and its officials, and Sri.P.Nandakumar, appeared for the 6th respondent, and perused the pleadings and materials on record.

36. The arguments advanced by learned counsel for petitioners was that the 6th respondent is unlawfully continuing in the post of the Joint Commissioner of Food Safety (Administration & Legal), which is arbitrary and illegal as he is not legally entitled to continue in the above post on or after 5.8.2011, on which date the Food Safety and Standards Rules, 2011 has come into force. It was also submitted that in Ext.P19 reply given to an application under Right to Information Act, it is stated that the order appointing the 6 th respondent in the above post did not come to his attention. Therefore, it is submitted that the respondent is an usurper in the above post and is liable to be ousted.

37. That apart it was argued that the 6 th respondent was appointed to the post without any appointment order and holding the same for more than 10 years which is violative of Articles 14, 16, 319 and 323 of the Constitution of India, apart from being violative of the provisions of Part I and Part II of the Kerala State & Subordinate Service Rules especially rules 2(1), 2(11), 2(12) and 2(13) of Part I KS&SSR and rules 5 , 9, 10, 18(a) and 28(b)(1) of Part II KS&SSR, which are applicable to holders of all posts whether temporary or permanent in service. It was again pointed out that the 6th respondent does not possess any of the qualifications prescribed under the Act, 2006 and the Rules, 2011. It was also contended that Article 319 of the Constitution of India provides for drawing up of procedure and rules to regulate recruitment and service conditions of candidates appointed to public service posts, but the 6 th respondent was not appointed in the post in question as provided under Article 319.

38. It was also the contention of the petitioners that Ext.P9, which according to the 6th respondent, is his appointment order is only an order giving additional charge to act in the post in question till the implementation of the FSS Act. That apart it was submitted that as per Ext.P20 order of the Commissioner of Food Safety, prescribing allocation of duties to the Joint Commissioner of Food Safety shows that enforcement duties are entrusted to the Joint Commissioner of Food Safety (Administration & Legal). It is also evident from Ext.R6(b) and R6(c) testimonials produced by the 6th respondent and Ext.P28 and Ext.P29 documents produced along with the reply affidavit of the petitioners that the 6th respondent has been discharging the duties of Joint Commissioner of Food Safety (Enforcement) and also Joint Commissioner of Food Safety (Food).

39. The sum and substance of the contention advanced is that, the incumbent, who holds the post of Joint Commissioner of Food Safety (Administration & Legal) is not supposed to conduct enforcement activities under the provisions of the Act, 2006 and therefore, no separate qualification is prescribed under the Act or Rules, is factually incorrect and legally unsustainable.

40. It is also submitted that one Sri.D.Sivakumar and Sri.C.L.Dileep, presently working as Deputy Commissioners, who were legally trained and experienced officers in the Commissionerate were liable to be posted as Joint Commissioner of Food Safety (Administration & Legal) while issuing Ext.P9 order and they are working as District Food Inspector and Food Inspector, respectively, which are statutory posts and therefore, contention of the 6th respondent that they are not qualified persons to hold the post is manifestly wrong and liable to be rejected. That apart a prime contention is advanced relying upon Ext.P14 order of the Government dated 7.6.2016, that the functional designation post created as per Ext.P9 was a temporary arrangement and no functional designation post created in the light of the above order are not now existing in the Commissionerate and therefore, the 6th respondent cannot continue in the post on the basis of the above order also.

41. So also the petitioners have attacked Ext.P16 order passed by the State Government declaring probation of the 6th respondent contending that the 6th respondent was not regularly appointed to the post and no such post was also created at the time of issuing Ext.P9 order giving additional charge of the Joint Commissioner of Food Safety (Administration & Legal) to the 6th respondent. However, Ext.P12 order creating the post was issued belatedly on 2.2.2013. Besides no rules or executive orders are issued by the Government prescribing conditions for completion of probation in the above post, is the contention. Other contentions are also raised relying upon the provisions of the Kerala State and Subordinate Service Rules as specified above and finally contended that, the 6th respondent is liable to be removed from the post and in view of the factual and legal circumstances, writ petition seeking a writ of quo warranto is clearly maintainable under law.

42. On the other hand, the Additional Advocate General submitted that the 6th respondent was appointed as Technical Assistant in the Health Department as per Ext.P1 on 17.12.1999 and the post was re-designated as Law Officer (Prevention of Food Adulteration) as per Ext.P2 dated 30.03.2001. It is also submitted that as per Ext.P6 order dated 23.5.2009, all the staff working in the implementation of Prevention of Food Adulteration Act, 1954, were transferred to the division, which will implement the Act, 2006 except the then existing ministerial staff, who were directed to be continued as such until further orders. It was accordingly that the 6th respondent was also

shifted in the Food Safety and Standards Act Wing. It was also submitted that since no rule was in force in respect of the post of Joint Commissioner of Food Safety (Administration & Legal), Ext.P16 order was issued invoking the power under Article 162 of the Constitution of India

43. The paramount contention advanced by the learned Additional Advocate General was that Ext.P9 and other Government orders are in favour of the 6th respondent and they are statutory executive orders issued by the State Government and therefore, a writ of quo warranto as is sought for by the petitioners is not maintainable and the issues are purely service matters. Apart from the same, it was submitted that there is a delay of 6 years in making the challenge, which is fatal in nature for securing any reliefs in a writ of quo warranto. That apart it was submitted that section 30 of the Act, 2006 only deals with the post of Commissioner of Food Safety; section 36 deals with Designated Officer; section 37 deals with Food Safety Officer and section 45 deals with Food Safety Analyst and therefore, neither the Act, 2006 nor the Rules, 2011 prescribes any qualification to the post of Joint Commissioner of Food Safety (Administration & Legal), thus enabling the State Government to invoke the powers conferred under Article 162 of the Constitution of India so as to make necessary appointments for the effective implementation of the provisions of the Act, 2006 and the Rules thereto.

44. It was also submitted that the decisions relied upon by the learned counsel for petitioners are all dealing with the issues on the basis of available statutory rules and provisions and in the case on hand, there is no statutory rule in force and therefore, the judgments relied on by the petitioners have no factual or legal foundation. Learned counsel for 6 th respondent submitted that at the time of appointment as per Ext.P1 order in the year 1999, the 6th respondent was a Post Graduate in Law and was qualified for the post of Technical Assistant (Legal), which was re-designated as is specified above. It is the further contention that the 6th respondent has assumed charge in the post as per Ext.P9 order on 18.2.2010 and Ext.P11 letter dated 21.04.2010 is only a routine communication for drawing the salary, not only for the 6 th respondent, but for others, who were holding the post in accordance with Ext.P9 order dated 17.2.2010 including the 1st petitioner.

45. It was also argued that as per Ext.P12 order dated 2.2.2013, it was recommended to make permanent and temporary posts of Joint Commissioner of Food Safety (Administration & Legal) and to create a post of Joint Commissioner of Food Safety along with other posts and therefore, 1 st petitioner, who was holding the post, was also made permanent along with the 6th respondent and the probation of the 6th respondent was declared as per Ext.P16. It was also submitted that the 6 th respondent has completed 10 years of service as Joint Commissioner of Food Safety (Administration & Legal) and by virtue of Exts.P9, P12, and P16 Government Orders, 6 th respondent is entitled to continue as of right since no other statutory rules in regard to that post is in vogue, which is an admitted fact .

46. Learned counsel for 6th respondent has invited our attention to various circumstances available on record to establish that the petitioners have approached this Court with unclean hands and they were nurturing ill- will against the 6th respondent for various reasons. Significantly it was pointed out that the 1st petitioner has retired as Deputy Director but in the writ petition it is stated that she has retired as Joint Commissioner of Food Safety. That apart it was submitted that the 6 th

respondent has filed W.P.(C) No.13754/2011 challenging the posting given to the 1 st petitioner as Additional Commissioner and later Government cancelled the said order and also the post of Deputy Director since the Departmental Promotion Committee was not convened before appointing the 1st petitioner. However, later she was promoted as Deputy Director in accordance with law.

47. Likewise, 2nd petitioner was placed under suspension by Commissioner of Food Safety and later he filed an Original Application before the Kerala Administrative Tribunal making the 6 th respondent a party alleging that the 6th respondent caused delay in disbursing pensionary benefits, apart from filing various petitions against the 6 th respondent and therefore, in inimical terms. So also the 3rd petitioner has filed an Original Application before the Kerala Administrative Tribunal making the 6 th respondent a party alleging that the 6th respondent caused delay in granting promotion to him as Assistant Commissioner of Food Safety. Similarly the 4 th petitioner, who retired from service on 30.4.2017, was not in good terms with the 6 th respondent in view of various actions taken against him. It was also pointed out that it was in the above background that these persons joined together and filed this writ petition seeking a writ of quo warranto.

48. Yet another submission made was that the service of the 6 th respondent as Joint Commissioner of Food Safety (Administration & Legal) has already been appreciated by the Food Safety and Standards Authority of India as per Ext.P6(b) communication and Ext.R6(c) proceedings of the State Government on the basis of the appreciation of the prompt action taken in complying with the directions issued by this Court in connection with preparation of food at Sabarimala amidst the heavy workload in the Commissionerate. It was also submitted that during the tenure of service there was no challenge made against Ext.P9 and other consequential orders because the 1st petitioner was a beneficiary of the said Government Orders. Again it was submitted that evident from Ext.R6(d) produced along with I.A.No.3 of 2020 in the writ petition, the 2 nd petitioner has addressed the Union Public Service Commission apprehending that there is likelihood of conferment of IAS to the 6th respondent by incorrectly stating that this Court in this writ petition has prima facie found that appointment of the 6 th respondent is illegal by issuing notice in a writ of quo warranto.

49. The sum and substance of the contention advanced by the learned counsel for the 6th respondent was that the petitioners have not approached this Court with clean hands which they are expected to do especially in a public interest litigation seeking a writ of quo warranto. It was also pointed out that since the 6th respondent was appointed by the State Government invoking the powers conferred under Article 162 of the Constitution of India, the 6th respondent is continuing in the post for the past 10 years under authority of law and on the basis of appropriate orders and therefore, the writ of quo warranto sought for cannot be sustained under law.

50. Learned counsel has also addressed arguments relying upon Part I and Part II of the Kerala State and Subordinate Service Rules especially contending that since all the employees of the Health Department functioning under the provisions of the Food Adulteration Act were absorbed when the Food Safety and Standards Act was implemented, there is no requirement of any consultation with the Public Service Commission as is contemplated under rules 3 & 13B of KS&SSR. So also it was submitted that rule 28B(12) deals with recommendation for promotion and the sum and substance

of the contention is that in view of the absorption made, there are no such requirements under the Rules to consult the Kerala Public Service Commission.

51. It was also submitted that as per rule 9 of the Kerala Civil Service (Qualification, Control and Appeal) Rules, Government is the appointing authority and for convenience it is delegated to the head of the departments. So also as per rule 10 of Part II KS&SSR, the Government is at liberty to fix the qualifications either through a statute or issuing executive orders and viewed in that manner, the appointment order issued in favour of the 6 th respondent and others are valid in law and to which the 1 st petitioner is a beneficiary. So also it was submitted that the post held by the 6 th respondent is not a promotion post since there was no feeder category for the same and the post is a standalone post and therefore, at this distance of 10 years time, if the appointment is held to be bad, there is no post available for the 6 th respondent to go back.

52. It was also predominantly contended that even if there are any irregularities in the appointment, it can be looked into only in a writ of certiorari and not in a writ of quo warranto. It was also submitted that the contention put forth by the petitioners that there are qualified hands to man the post of joint Commissioner of Food Safety and also to take over the charge of Joint Commissioner of Food Safety, is not correct since the persons named by the petitioners and specified above are holding inferior posts and they are not entitled to secure any promotion to the superior post of Joint Commissioner of Food Safety.

53. Learned counsel for petitioners has invited our attention to the judgment of this Court in *Balakrishna Pillai v. State of Kerala* [1983 KLT 784]. However, that was a case where the petitioner therein has sought a writ of mandamus directing the respondents to promote the petitioner to the post of Deputy Drugs Controller since no rules have been so far framed in regard to the post of Assistant Drugs Controller (Ayurveda) as it existed or in regard to the upgraded post of Deputy Drugs Controller (Ayurveda) and further that no special rules or executive orders have been made in that behalf. The principles of law laid down in the said judgment, in our view, would not enure to the benefit of the petitioners since petitioners are not affected persons consequent to the non-framing of the rules.

54. The judgment of the apex court in *Rajesh Awasthi v. Nand Lal Jaiswal & Others* [(2013)1 SCC 501] was pressed into service by the learned counsel for petitioners, wherein the issue of maintainability of quo warranto was considered. But we find that there the subject matter was relating to an appointment made contrary to statutory provisions as Chairperson of the State Electricity Regulatory Commission. But here in this case, it is an admitted fact that so far as the Joint Commissioner of Food Safety (Administration & Legal) is concerned, there is no qualification prescribed to the said post.

55. In the judgment of the Apex Court in *B.R.Kapur v. State of Tamil Nadu & Another* [(2001)7 SCC 231], the question considered was whether the appointment made by the President or the Governor, of a person to a constitutional office, the qualification of that person to hold that office can be examined in quo warranto proceedings and appointment can be quashed. There is no doubt, in our view, that if a qualification is prescribed, definitely when the same is overlooked, the person can be

said to be an usurper in the office of the concerned post.

56. Learned counsel for petitioners has also relied upon the judgment of the Apex Court in *Secretary, State of Karnataka and Others v. Umadevi & Ors.* [(2006)4 SCC 1], wherein the question considered was in regard to the regular process of recruitment or appointment and held that recruitment or appointment has to be resorted to when regular vacancies in posts at a particular point of time are to be filled up so far as the public employment is concerned and has to be in terms of the constitution scheme whereby equality of opportunity is to be provided to all the qualified persons. Admittedly in the case on hand, the officers, who held the post in the Health Department under the Prevention of Food Adulteration Act were absorbed when the Act, 2006 was implemented and therefore, there was no question of inviting applications for any public employment.

57. The judgment in *Ramesh Narain Saxena v. Chairman, Jal Sansthan, Agra and Others* [2009(8)ADJ 741(DB)] of the Allahabad High Court was pressed into service wherein the dispute was between two persons, who were working as Account Clerks, and the rules as well as resolution referred to, made any provision for the promotion of Account Clerks to the post of Accountant and it was held that the post of Accountant is not a promotional post and therefore, the facts and circumstances are entirely different and the judgment was rendered taking into account the peculiar facts and circumstances involved in the case and wherein it was observed that framing of rules for promotion is to be adopted by the Government in accordance with the provisions of the U.P. Water Supply and Sewerage Act, 1975 so as to conform to Articles 14 & 16 of the Constitution of India.

58. In *Centre for PIL and another v. Union of India and another* [92011)4 SCC], the question considered was in respect of the relevance of personal integrity to be taken into account while making appointments so as to protect the institutional integrity. To apply the principles of law laid down in the same, we do not think the petitioners have made any allegations so as to interfere with the integrity or good conduct of the 6 th respondent.

59. In *Central Electricity Supply Utility of Odisha v. Dhobei Sahoo & others* [(2014)1 SCC 161], definitely the question considered was in respect of requisites of issuing a writ of quo warranto, but ultimately we find that the law laid down was that the writ of quo warranto is intended to confer jurisdiction of constitutional courts to ensure that public office is not held by an usurper without legal authority.

60. In *University of Mysore v. C.D.Govinda Rao and Another* [AIR 1965 SC 491], the Apex Court considered the question of issuing quo warranto after referring to various propositions in regard to the issuance of writ of quo warranto. It was held that before a citizen can claim a writ of quo warranto, he must satisfy the court, inter alia, that the office in question is a public office and is held by usurper without legal authority, and that necessarily leads to the enquiry as to whether the appointment of the said alleged usurper has been made in accordance with law or not.

61. In *State of Orissa & Another v. Mamata Mohanty* [(2011)3 SCC 436] wherein the Apex Court considered basically the requirement to maintain the high academic standard to education and also considered the concept of adverse possession in service jurisprudence and ultimately held that if an

order is abinitio void, all consequent proceedings will be non est in the eye of law. In fact, the question considered therein was with respect to the appointment made on temporary or ad hoc basis without inviting applications from all eligible candidates and held that for a valid and legal appointment, mandatory compliance of the constitutional requirement is to be fulfilled. In our view, the facts and circumstances involved are entirely different and it was in respect of appointments made by merely inviting names from the Employment Exchange or putting a note on the Notice Board, which was held to be not meeting the requirements of Articles 14 & 16 of the Constitution of India.

62. So also the judgment of the Apex Court in *Dr.M.S.Patil v. Gulbarga University & Others* [(2010)2 SCC 63], was pressed into service by the counsel for the petitioners wherein an employee continued in service for a period of 17 years and ultimately held that the appellant working on ad hoc basis cannot be continued indefinitely. We do not think any such issue is remaining in the case on hand since the appointment of 6th respondent to the entry post and the subsequent appointment to the present post are never adhoc, and finally it was held that mere continuance in the post for a period of 17 years would not provide any right to the appellant to claim any adverse possession or holding over.

63. Learned Additional Advocate General has pressed into service the judgments of the Apex Court in *B.N.Nagarajan and Others v. State of Mysore and Others* [AIR 1966 SC 1942] and *Ramesh Prasad Singh v. State of Bihar* [1978(1) SCC 37] wherein it was held that the rules did not prevent the State from exercising its executive power conferred under Article 162 of the Constitution of India and that it cannot be overlooked that it is not obligatory to make rules of recruitment before a service is constituted or a post is created or filled up and in such situations the authorities concerned would have the power to appoint or terminate the administrative personnel under the general power of administration vested in them.

64. Learned Additional Advocate General had invited our attention to the judgment of the Apex Court in *Tirupathi K. v. Government of Andra Pradesh and Others* [1983 KHC 791] wherein the question considered was whether the State Government can create a post and recruitment could be made in exercise of its executive power and it was held that even in the absence of rules, a post can be created and recruitment could be made by State Government in exercise of its executive power under Article 162 of the Constitution of India.

65. So also the Additional Advocate General had invited our attention to the judgment of the Apex Court in *T.Cajee v. U.Jormonik Siem* [AIR 1961 SC 276] wherein it was held that the authorities concerned would at all relevant times have the power to appoint or remove administrative personnel under the general power of administration vested in them and therefore, the view taken by the High Court that there could be no appointment or removal by the District Council without a law having been first passed in that behalf cannot be sustained.

66. Learned Additional Advocate General further invited our attention to the judgment of a Division Bench of this Court in *Alex Beets v. M.A.Urmese* [1970 KLT 639] wherein the question considered was in regard to the appointment of honorary Medical officers invoking the powers under Article

162 of the Constitution of India vis -a- vis equality of opportunity, and held that it cannot be heard in motion for a writ of quo warranto since the petitioner therein was not an aspirant of the post.

67. Learned counsel for the 6th respondent has also relied upon the judgment of the constitutional Bench of the Apex Court in C.D.Govinda Rao supra and according to him, the findings rendered therein is absolutely in favour of the 6th respondent. It is true that in the said judgment the Apex Court has clearly entered into a finding that the judgment does not show that any statutory provision or rules were placed before the court and that in making appointment of appellant No.2 therein, those statutory provisions had been contravened. It was also held therein that the matter appears to have been argued before the High Court on the assumption that, if the appointment of appellant No.2 was shown to be inconsistent with the qualifications as they were advertised by appellant No.1, that itself would justify the issue of writ of quo warranto.

68. Learned counsel has also relied upon the judgment of the Apex Court in B.Srinivasa Reddy v. Karnataka Urban Water Supply and Drainage Board Employees' Association and Others [(2006)11 SCC 731] wherein the question of issuing a writ of quo warranto in respect of a temporary appointment was considered and held that the order appointing the appellant clearly stated that the appointment is until further orders and the terms and conditions of appointment made it clear that appointment is temporary and is until further orders and therefore, the High Court has erred in law in issuing a writ of quo warranto. It was further found that neither the Act involved therein nor the rule prescribed any mode of appointment or tenure of appointment and when the mode and tenure of appointment have been left to the discretion of the Government by the Act and the Rules, and the Act makes it clear that the Managing Director shall hold office at the pleasure of the Government the High court could not have fettered the discretion of the Government by holding that section 4(2) of the Act does not expressly give the power to the State Government to make ad hoc or contract appointment when the Act and the statutory Rules have not prescribed any definite term and any particular mode, and it was further held that the High Court could not have read into the statute a restriction or prohibition that is not expressly prohibited by the Act and the Rules.

69. It was again stated therein in unequivocal terms that it is well settled that when the statute does not lay down the method of appointment or term of appointment and when the Act specifies that the appointment is one of sure tenure, the Appointing Authority, who has power to appoint has absolute discretion in the matter and it cannot be said that discretion to appoint does not include power to appoint on contract basis. Therefore, it was held that the findings recorded by the learned Single Judge of the High Court that the appointment was bad for the reason that it was made on temporary basis and continued for nearly 2 years, was wholly contrary to law particularly when the Act and the Rule do not stipulate maximum period of appointment. It was also held therein that the jurisdiction of the High Court to issue a writ of quo warranto is a limited one which can only be issued when the appointment is contrary to the statutory rules. The Apex Court in that judgment had conducted a survey of its earlier judgments on the point and it is only appropriate that relevant paragraphs of the judgment are extracted:

53. It is settled law by a catena of decisions that the court cannot sit in judgment over the wisdom of the Government in the choice of the person to be appointed so long as

the person chosen possesses the prescribed qualification and is otherwise eligible for appointment. This Court in *R.K. Jain v. Union of India* [(1993) 4 SCC 119 : 1993 SCC (L&S) 1128 : (1993) 25 ATC 464] was pleased to hold that the evaluation of the comparative merits of the candidates would not be gone into a public interest litigation and only in a proceeding initiated by an aggrieved person, may it be open to be considered. It was also held that in service jurisprudence it is settled law that it is for the aggrieved person, that is, the non-appointee to assail the legality or correctness of the action and that a third party has no locus standi to canvass the legality or correctness of the action. Further, it was declared that public law declaration would only be made at the behest of a public-spirited person coming before the court as a petitioner. Having regard to the fact that neither Respondents 1 and 2 were or could have been candidates for the post of Managing Director of the Board and the High Court could not have gone beyond the limits of quo warranto so very well delineated by a catena of decisions of this Court and applied the test which could not have been applied even in a certiorari proceedings brought before the Court by an aggrieved party who was a candidate for the post.

54. The judgment impugned in this appeal not only exceeds the limit of quo warranto but has not properly appreciated the fact that the writ petition filed by the Employees' Union and the President of the Union, Halakatte was absolutely lacking in bona fides. In the instant case, the motive of the second respondent Halakatte is very clear and the Court might in its discretion decline to grant a quo warranto.

55. This Court in *A.N. Shashtri v. State of Punjab* [1988 Supp SCC 127 :

1988 SCC (L&S) 536 : (1988) 7 ATC 290] held that the writ of quo warranto should be refused where it is an outcome of malice or ill will. The High Court failed to appreciate that on 18-1-2003 the appellant filed a criminal complaint against the second respondent Halakatte, that cognizance was taken by the criminal court in CC No. 4152 of 2003 by the Jurisdictional Magistrate on 24-2-2003, process was issued to the second respondent who was enlarged on bail on 12-6-2003 and the trial is in progress. That apart, the second respondent has made successive complaints to the Lokayukta against the appellant which were all held to be baseless and false. This factual background which was not disputed coupled with the fact that the second respondent Halakatte initiated the writ petition as President of the 1st respondent Union, which had ceased to be a registered trade union as early as on 2-11-1992 suppressing the material fact of its registration having been cancelled, making allegations against the appellant which were no more than the contents of the complaints filed by him before the authorities which had been found to be false after thorough investigation by the Karnataka Lokayukta, would unmistakably establish that the writ petition initiated by Respondents 1 and 2 lacked in bona fides and it was the outcome of the malice and ill will the 2nd respondent nurses against the appellant. Having regard to this aspect of the matter, the High Court ought to have dismissed the writ petition on that ground alone and at any event should have

refused to issue a quo warranto, which is purely discretionary. It is no doubt true that the strict rules of locus standi are relaxed to an extent in a quo warranto proceedings. Nonetheless an imposter coming before the Court invoking public law remedy at the hands of a constitutional court suppressing material facts has to be dealt with firmly.

56. This Court in *B. Singh (Dr.) v. Union of India* [(2004) 3 SCC 363] held that only a person who comes to the Court with bona fides and public interest can have locus. Coming down heavily on busybodies, meddlesome interlopers, wayfarers or officious interveners having absolutely no public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity, this Court at para 14 of the Report held as under: (SCC p. 373, para

14) "14. The court has to be satisfied about: (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; and (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike a balance between two conflicting interests: (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the executive and the legislature. The court has to act ruthlessly while dealing with imposters and busybodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of pro bono publico, though they have no interest of the public or even of their own to protect."

70. In the instant case, there is no violation of statutory provision and, therefore, in our view, a writ of quo warranto does not lie. If there be any doubt, it has to be resolved in favour of upholding the appointment.

71. In *Statesman (P) Ltd. v. H.R. Deb* [(1968) 3 SCR 614 : AIR 1968 SC 1495] Hidayatullah, C.J., speaking for the Constitution Bench indicated: (SCR p. 621 F) "The High Court in a quo warranto proceeding should be slow to pronounce upon the matter unless there is a clear infringement of the law."

72. In the circumstances which we have narrated above in paragraphs supra, it is indeed difficult to hold that the appellant did not have the requisite qualification.

73. The above ruling was followed in *A.N. Shashtri v. State of Punjab* [1988 Supp SCC 127 : 1988 SCC (L&S) 536 : (1988) 7 ATC 290]. We are of the view that in the facts of this case, the reasonable conclusion to reach should have been that the writ petitioners had failed to establish that the appellant did not possess requisite qualification and the appeals are, therefore, allowed and the

judgment of the High Court has to be set aside and the writ petition has to be dismissed.

78. The High Court, in the instant case, was not exercising certiorari jurisdiction. Certiorari jurisdiction can be exercised only at the instance of a person who is qualified to the post and who is a candidate for the post. This Court in *Umakant Saran (Dr.) v. State of Bihar* [(1973) 1 SCC 485] held that the appointment cannot be challenged by one who himself is not qualified to be appointed. In *Kumari Chitra Ghosh v. Union of India* [(1969) 2 SCC 228] a Constitution Bench of this Court held as under: (SCC p. 234, para 12) "12. The other question which was canvassed before the High Court and which has been pressed before us relates to the merits of the nominations made to the reserved seats. It seems to us that the appellants do not have any right to challenge the nominations made by the Central Government. They do not compete for the reserved seats and have no locus standi in the matter of nomination to such seats. The assumption that if nominations to reserved seats are not in accordance with the rules all such seats as have not been properly filled up would be thrown open to the general pool is wholly unfounded."

84. In our opinion, the finding of legal mala fides is unsustainable being based on a misunderstanding of the law and facts. When a competent and experienced officer of an outstanding merit is appointed to a higher post on contract basis after his superannuation from service in the larger public interest, it does not suffer from legal malice at all. The decision of the then Chief Minister, Shri S.M. Krishna, recorded in the file is also extracted by the High Court at p. 69 of SLP paper-book, Vol. II. In the context of the note put up by the Secretary of the Department, it is again extracted at pp. 67 and 68 which clearly bring out the fact that the appointment was made in the interest of the Board and the State at a time when nobody else other than the appellant could have served the interests of the State better. The High Court failed to appreciate the element of urgency involved in making the appointment because of impending negotiations with World Bank scheduled for 9-2-2004. The writ petition, in our opinion, was motivated as Respondent 1 had lodged a false complaint to the Lokayukta against the appellant which was found to be baseless by the Lokayukta (Annexure P-9). A petition praying for a writ of quo warranto being in the nature of public interest litigation, it is not maintainable at the instance of a person who is not unbiased. The second respondent is the President of the first respondent Union. He has chosen this forum to settle personal scores against his erstwhile superior officer after his retirement. The proceeding, in our view, is not meant to settle personal scores by an employee of the department. The High Court, in our view, ought to have dismissed the writ petition filed by Respondent 1 at the threshold.

91. Two important considerations must weigh with us in determining our approach to these questions. First, the post of Managing Director is a highly respectable post. It is a post of great confidence--a lynchpin in the administration and smooth functioning of the administration requires that there should be complete rapport and understanding between the Managing Director and the Chief Minister. The Chief Minister as a head of the Government is in ultimate charge of the administration and it is he who is politically answerable to the people for the achievements and failures of the Government. If the Chief Minister (sic places) confidence on the appellant, he may legitimately in the larger interests of administration appoint him until further orders as MD of the Board. It does not involve violation of any legal or constitutional rights. Secondly, given the vast multitudinous activities in which a modern State is engaged, there are bound to be some posts which

require for adequate discharge of their functions, high degree of intellect and specialised experience. It is always a difficult problem for the Government to find suitable officers for such specialised posts. There are not ordinarily many officers who answer the requirements of such specialised posts and the choice with the Government is very limited and this choice becomes all the more difficult, because some of these posts, though important and having onerous responsibilities, do not carry wide executive powers and officers may not, therefore, generally be willing to be transferred to those posts. The Government has in the circumstances to make the best possible choice it can, keeping in view the larger interests of the administration. When in exercise of this choice, the Government transfers an officer from one post to another, the officer may feel unhappy because the new post does not give him the same amplitude of powers which he had while holding the old post. But that does not make the appointment arbitrary. So long as the appointment is made on account of the exigencies of administration, it would be valid and not open to attack under Articles 14 and 16. Here the post of MD was admittedly a selection post and after careful examination of the merits, the Chief Minister selected the appellant for the post of MD. It was not the case of the respondents that the appellant was not found qualified to the task or that his work was not satisfactory."

70. Likewise the judgment of the Apex Court in *Hari Bansh Lal v. Sahodar Prasad Mahto and Others* [(2010)9 SCC 655] was pressed into service wherein also the Apex Court held that even for issuance of a writ of quo warranto the High Court has to specify that the appointment is contrary to the statutory rules and further that whether a candidate is suitable for appointment to a post is the function of the appointing authority and it is not for the court to decide such issues unless the appointment is contrary to statutory provisions or rules.

71. Learned counsel has also relied upon the judgment of the Apex Court in *Ramakant Shripad Sinai Advalpalkar v. Union of India and Others* [AIR 1991 SC 1145] to canvass the proposition that mere order passed by the State Government to discharge the duties of the Commissioner of Food Safety as per the order of the Government cannot be equated to a promotion and it was held as follows at paragraph 4:

4. On the first contention, the very terms of the office order dated August 30, 1963 [Ex. A] is clear and conclusive. It says:

"Shri Ramakanta Sripada Sinai Advolpalcar, acting Grade 3 Officer of the Caixa Economica de Goa will perform the duties of the Treasurer of Caixa Economica de Goa, vice Shri Antonio Xavier Furtado, who died this morning. Shri Advolpalcar should assume the function of the post from today.

Shri Advolpalcar will draw besides the monthly salary of his own post as acting Grade 3 Officer an allowance of Rs 100 p.m. which is payable to the post of treasurer under the existing rules"

(emphasis supplied) The arrangements contemplated by this order plainly do not amount to a promotion of the appellant to the post of Treasurer. The distinction between a situation where a government servant is promoted to a higher post and one where he is merely asked to discharge the

duties of the higher post is too clear to require any reiteration. Asking an officer who substantively holds a lower post merely to discharge the duties of a higher post cannot be treated as a promotion. In such a case he does not get the salary of the higher post; but gets only what in service parlance is called a "charge allowance". Such situations are contemplated where exigencies of public service necessitate such arrangements and even consideration of seniority do not enter into it. The person continues to hold his substantive lower post and only discharges the duties of the higher post essentially as a stop-gap arrangement."

72. It is an admitted fact that the Food Safety and Standards Act, 2006, the Rules, 2011 and the executive orders issued are not prescribing any qualification for the post of Joint Commissioner of Food Safety (Administration and Legal). We have also noted that the provisions of the Food Safety and Standards Act, 2006, has not prescribed any qualifications in regard to the post now held by the 6th respondent. It is virtually an admitted fact even by the petitioners, though petitioners have a case that by virtue of the Government Orders, the 6th respondent as the Joint Commissioner of Food Safety (Administration and Legal) is discharging the duties of enforcement and others to which qualifications are prescribed. But on a perusal of the Government orders it is clear that the 6th respondent was given charge of the Commissioner of Food Safety which would not in any manner be accepted as a promotion to the post of Commissioner of Food Safety. It is also an admitted fact that the 6th respondent was appointed to act as Joint Commissioner of Food Safety (Administration and Legal) while he was an Officer on Special Duty (Food Safety) and Law Officer (Prevention of Food Adulteration).

73. In fact as per Ext.P9 order the Government have decided to restructure the Commissionerate of Food Safety to undertake new responsibility under the Act, 2006 and it was accordingly that four functional wings were created viz., (1) Enforcement wing (2) Food Safety (Laboratory) (3) Administration and Legal and (4) Research, Development and Training. It is worthwhile to note that 1st petitioner viz., B. Sudharma was a beneficiary of Ext.P9 order since she was appointed to act as Joint Commissioner of Food Safety (Laboratory) and she has harvested the benefits of that post. Likewise it was by the Government Order dated 29.3.2010, the Government authorised the 6th respondent to function as Drawing and Disbursing Officer in the Commissionerate of Food Safety and it was only in that capacity the 6th respondent has issued Ext.P11 order dated 21.4.2010 assigning work to the beneficiaries of Ext.P9 order for and on behalf of the Commissioner of Food Safety.

74. It is also evident from Ext.P12 Government Order dated 2.2.2013 that it was on recommendation of the Commissioner of Food Safety to make permanent the temporary post of Joint Commissioner of Food Safety (Administration and Legal) and to create a post of Joint Commissioner of Food Safety, the Government have issued the said order, with a condition that, those posts would come into existence w.e.f. 1.4.2013 in effect. As per Ext.P12 Government Order, two posts of Joint Commissioners were created along with 57 posts of Food Safety Officers. So also it is evident from Ext.P13 Government Order dated 3.12.2013 that the Government, after consultation with the Kerala Public Service Commission, accorded sanction to fix the qualification and method of appointment under the enforcement wing in accordance with the Act, 2006 and the qualification to the post of Joint Commissioner of Food Safety (Enforcement) and Assistant Commissioner of Food

Safety/Assistant Commissioner of Food Safety (Intelligence) were fixed along with other Officers under the Act, 2006 and Ext.P13(a) Government Order dated 26.9.2014 was issued revising the Government Order fixing the qualification and method of appointment and name of post, modifying Ext.P13 order dated 3.12.2013. Therefore, it is evident that the post held by the 6th respondent is a standalone post created by the State Government exercising its powers conferred under Article 162 of the Constitution of India in order to effectively implement the Food Safety and Standards Act by appointing the 6th respondent as the Joint Commissioner of Food Safety (Administration and Legal).

75. There is no case for the petitioners that 6 th respondent is not qualified to hold the post of Joint Commissioner of Food Safety (Administration and Legal) on the basis of any statutory rules or executive orders besides the fact that the 6 th respondent is a Post Graduate in Law and he was appointed in the Health Department as Technical Assistant (Legal), which was re-designated as per Ext.P2 order dated 30.3.2001 as Law Officer (Prevention of Food Adulteration). It is also equally important to note that as per Ext.P20 order dated 9.3.2010, powers were delegated to the Joint Food Safety Commissioners of Enforcement, Food Safety Lab, and Administration and Legal by which the 6th respondent was conferred with; (i) All matters relating to Administration including leave, sanctioning of higher grade, financial matters, purchases, provident fund, motor vehicle etc. (ii) All legal matters in the Commissionerate of Food Safety and (iii) All matters relating to the creating of posts, re-organisation, restructuring of Commissionerate of Food Safety, preparedness of the Commissionerate of Food Safety and introduction of FSSAI Act in Kerala etc. Again the probation of the 6th respondent was declared as per Ext.P16 order dated 30.5.2014 in the cadre of Joint Commissioner of Food Safety (Administration and Legal).

76. The discussions made above would make it clear that the 6th respondent is holding the post in question in terms of appropriate Government Orders. We are also conscious of the fact that under the Act, 2006, there is no qualification prescribed so far as the Joint Commissioner of Food Safety (Administration and Legal) is concerned. Therefore, taking into account the facts, circumstances and law discussed above, we are of the clear opinion that it can never be said that the 6 th respondent was appointed to the present post overlooking the provisions of the Act, 2006 or the Rules, 2011 or any other executive orders.

77. The proposition of law laid down by the Apex Court also makes it explicit and clear that a writ of quo warranto cannot be maintained, if the appointment was made not in violation of any statutory provisions. The case projected by the petitioners is that since no statutory provisions are made for the appointment of the Joint Commissioner of Food Safety (Administration and Legal), the Government was not at liberty to issue any Government Orders and appoint the 6th respondent. However it is clear from the law laid down by the Apex Court discussed above that, the Government is vested with powers under Article 162 of the Constitution of India to exercise the executive power to make any appointments. The proviso thereto also makes it clear that the executive power exercised by the Government shall be subject to and limited by the executive power expressly conferred by the constitution or by any law made by Parliament upon the Union or authorities thereof. Which thus means, if there are no specific statutory provisions in order to make any appointment, the Government is at liberty to carry out the functions of the Government by invoking

the power conferred under Article 162 of the Constitution of India. After all it is for the Government to decide as to how to carry on with its functions in its various departments. It was accordingly that the Government decided to create four wings in the Food Safety and Standards Department so as to efficiently and appropriately carry out the functions of the said department. It is curious to note that the 1st petitioner was a beneficiary of Ext.P9 order, which she now attacks as an illegal order and having enjoyed the benefits of a post created as per Ext.P9, the 1st petitioner was not at liberty to turn around and attack the said order.

78. It is also significant to note that the 6th respondent was given good service entry by the State Government taking into account the efficient service rendered by the 6th respondent in various duties entrusted to him. It is also important to note that efficiency of the 6th respondent was recognised by the National Food Safety Department when it has appreciated the work carried out by the 6th respondent, evident from Ext.6(b) dated 27.9.2013 for effective leadership and guidance in the implementation of the Act, 2006 and the Rules and regulations framed thereunder.

79. Moreover, the provisions of the Kerala State and Subordinate Service Rules discussed above would make it clear that they have their own unique features while making necessary appointments. It is clear from the provisions of the KS&SSR that, only at the time of recruitment as per rule 3(a) Part II KS&SSR and at the time of promotion to a selection post in terms of rule 28(b)(i)(12) of Part II KS&SSR, consultation with the Public Service Commission is required. It is also equally clear and evident from Ext.P13 qualification and method of appointment prescribed by the Government to the post of Joint Commissioner of Food Safety (Enforcement) since it is a promotion post of Assistant Commissioner (Enforcement) for which the feeder category post is the Food Safety Officer, which is a statutory post, for which qualification have been prescribed in Rules, 2011, whereas the post of Joint Commissioner Food Safety (Administration and Legal) is not a promotion post to any other post or from any other post and as rightly pointed out it is a standalone post created by the Government for efficiently and effectively discharging the functions of Food Safety Department of the State Government.

80. In that view of the matter, the contentions advanced by the learned counsel for petitioners relying upon the provisions of KS & SSR may not have much force at all. It is also clear and evident from the specific pleadings put forth by the 6th respondent in his counter affidavit that petitioners were not in good terms with the 6th respondent and has even made the 6th respondent a party in the litigation preferred by them before the Kerala Administrative Tribunal in regard to their pensionary benefits, promotion etc. etc. alleging that those service benefits were delayed to the petitioners consequent to the interference of the 6th respondent. It is also evident that various complaints were filed by the 3rd petitioner before various statutory authorities against the 6th respondent, and it is in continuation of the same, Ext.R6(d) letter was addressed by the 2nd petitioner to the Chairman of the Union Public Service Commission informing that several attempts are made to confer IAS to the 6th respondent and necessary steps shall be taken to ensure that the IAS is not conferred on the 6th respondent, which is in turn a continuation of e-mail representation dated 17.8.2020.

81. Taking into account the aforesaid aspects and the conduct of the 1st petitioner having attacked the relevant Government Orders, which were beneficial to her, after her retirement and the retirement of others, cannot be said to have approached this Court by filing a Public Interest Litigation seeking a writ of quo warranto against the 6th respondent, bonafidely and in the larger interest of public. It is a well settled position in law that a public interest litigant always should approach the court not only with clean hands but with a clean heart, soul and mind.

82. Taking into account the relevant inputs provided by the 6 th respondent and the Government, we are of the opinion that petitioners have not approached this Court with clean hands and pure mind and soul and we are also of the opinion that the conduct of the petitioners show that they always had an axe to grind with the 6 th respondent. Thinking so we are of the opinion that a writ of quo warranto sought for by the petitioners against the 6th respondent cannot be sustained under law especially due to the fact that the 6th respondent is holding the post in accordance with the orders issued by the Government exercising the powers conferred under Article 162 of the Constitution of India and there are no statutory rules prescribing qualifications so far as the appointment of the 6th respondent is concerned in the present post.

Upshot of the discussion is that, the writ petition fails, accordingly it is dismissed.

Sd/-

S.MANIKUMAR CHIEF JUSTICE Sd/-

SHAJI P.CHALY JUDGE APPENDIX PETITIONER'S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE ORDER NO.EG1-3991/94/DHS DATED 17/12/1999 OF THE DIRECTOR OF HEALTH SERVICES.
EXHIBIT P2	TRUE COPY OF THE G.O.RT.NO.926/2000/H&FWD DATED 30/3/2001.
EXHIBIT P3	TRUE COPY OF THE GO(RT) NO.3201/2003/RD DATED 17/10/2003.
EXHIBIT P4	TRUE COPY OF THE REPLY DATED 18/11/2019 OF THE CENTRAL PUBLIC INFORMATION OFFICER OF 3RD RESPONDENT.
EXHIBIT P5	TRUE COPIES OF THE RELEVANT PAGES OF THE ENTITLEMENT REGISTER OF THE 6TH RESPONDENT FURNISHED TO THE 2ND PETITIONER UNDER R.T.I.ACT.
EXHIBIT P6	TRUE COPY OF THE GO(MS) 123/2009/H&FWD DATED 23/5/2009.
EXHIBIT P7	TRUE COPY OF THE GO(MS) NO.122/2009/H&FWD

DATED 23/5/2009.

EXHIBIT P8	TRUE COPY OF THE GO(RT) NO.3466/08/H&FWD DATED 20/10/2008.
EXHIBIT P9	TRUE COPY OF THE G.O.(RT) NO.578/2010/H&FWD DATED 17/2/2010.
EXHIBIT P10	TRUE COPY OF THE GO(RT) NO.2483/2010/FIN DATED 29/3/2010.
EXHIBIT P11	TRUE COPY OF THE LETTER DATED 21/4/2010 OF THE FOOD SAFETY COMMISSIONER ADDRESSED TO THE 3RD RESPONDENT.
EXHIBIT P12	TRUE COPY OF THE G.O.(MS) NO.24/2013/H&FWD DATED 2/2/2013.
EXHIBIT P12A	TRUE ENGLISH TRANSLATION OF EXT.P11.
EXHIBIT P13	TRUE COPY OF THE G.O.(MS) 465/2013/H&FWD DATED 3/12/2013.
EXHIBIT P13A	TRUE COPY OF THE G.O.(MS) NO.287/2014/H&FWD DATED 26/9/2014.
EXHIBIT P14	TRUE COPY OF THE LETTER NO.603414/E1/1206/H&FWD DATED 7/6/2016 ADDRESSED TO 5TH RESPONDENT.
EXHIBIT P14A	TRUE ENGLISH TRANSLATION OF THE EXT.P14.
EXHIBIT P15	TRUE COPY OF THE G.O.(MS) NO.200/2016/H&FWD DATED 24/10/2016.
EXHIBIT P16	TRUE COPY OF THE G.O.(RT) NO.1775/2014/H&FWD DATED 30/5/2014.
EXHIBIT P17	TRUE COPY OF THE APPLICATION DATED 6/3/2014 SUBMITTED BY THE 6TH RESPONDENT TO THE 5TH RESPONDENT, CFS.
EXHIBIT P18	TRUE COPY OF THE REPLY DATED 1/12/2018 OF THE DY. SECRETARY AND STATE PUBLIC INFORMATION OFFICER OF THE 2ND RESPONDENT.
EXHIBIT P18A	TRUE ENGLISH TRANSLATION OF EXT.P18.
EXHIBIT P19	TRUE COPY OF THE REPLY OF THE JOINT SECRETARY & APPELLATE AUTHORITY, HEALTH AND FAMILY WELFARE DEPARTMENT.

EXHIBIT P19A	TRUE ENGLISH TRANSLATION OF EXT.P19.
EXHIBIT P20	TRUE COPY OF THE ORDER NO.B-77/20019/CFS DATED 9/3/2010 ISSUED BY THE 5TH RESPONDENT.
EXHIBIT P21	TRUE COPY OF THE PETITION DATED 10/4/2019 SUBMITTED BY THE 2ND PETITIONER TO THE ADDL. CHIEF SECRETARY, HEALTH AND FAMILY WELFARE DEPARTMENT.
EXHIBIT P22	TRUE COPY OF THE REPLY OF THE STATE PUBLIC INFORMATION OFFICER OF THE 2ND RESPONDENT UNDER LETTER DATED 29/8/2019.
EXHIBIT P22A	TRUE ENGLISH TRANSLATION OF EXT.P22.
EXHIBIT P23	TRUE COPY OF THE G.O.(RT) NO.6797/2019/GAD DATED 27/11/2019.
EXHIBIT P 24	TRUE COPY OF THE RELEVANT PORTION OF THE PROCEEDINGS NO.CAP VI/MISC/2008-09 DATED 31/12/2008 ISSUED BY THE ACCOUNTANT GENERAL
EXHIBIT P25	TRUE COPY OF THE ORDER DATED 18/5/2015 ISSUED BY THE COMMISSIONER OF FOOD SAFETY
EXHIBIT P26	TRUE COPY OF THE REPRESENTATION DATED 21/12/09 SUBMITTED BY THE 6TH RESPONDENT TO THE 2ND RESPONDENT
EXHIBIT P27	TRUE COPY OF THE RELEVANT EXTRACT OF THE PAY REVISION COMMISSION REPORT ALONG WITH THE TABLE
EXHIBIT P28	TRUE COPY OF THE LETTER NO.E-8583/2019/FCS DATED 13/12/2019 ISSUED BY THE 6TH RESPONDENT
EXHIBIT P28(a)	TRUE TRUE ENGLISH TRANSLATION OF EXT.P-28
EXHIBIT P29	TRUE COPY OF THE RELEVANT EXTRACT PF AGENDA OF THE INTERACTION WITH FOOD SAFETY OFFICIALS.
EXHIBIT P30	TRUE COPY OF THE G0(Rt)NO.734/2011 H&FWD DATED 25/2/2011
EXHIBIT P31	TRUE COPY OF THE REPORT OF TRANSFER OF CHARGE

EXHIBIT 32	TRUE COPY OF THE G.O)Rt) NO.1359/2011/H&FWD ORDER DATED 7/4/2011
EXHIBIT P33	TRUE COPY OF THE ORDER DATED 11/4/2011 OF THIS HON'BLE COURT IN WPC 11843/2011
EXHIBIT P34	TRUE COPY OF THE ORDER DATED 16/8/2011 OF THIS HONBLE COURT IN WPC NO.11843/2011
EXHIBIT P35	TRUE COPY OF THE GO(Rt) NO.206/2017/H&FWD DATED 27/1/2017
RESPONDENT'S	EXHIBITS:
EXHIBIT R6(A)	TRUE COPY OF THE COMMON ORDER DATED 09.10.2017 IN T.A.NO.6429 OF 2012 AND CONNECTED CASES.
EXHIBIT R6(B)	TRUE COPY OF THE LETTER OF THE FOOD SAFETY AND STANDARDS AUTHORITY OF INDIA DATED 27.09.2013.
EXHIBIT R6(C)	TRUE COPY OF G.O.(RT) NO.2581/2013/F&FWD DATED 17.07.2013 ISSUED BY THE GOVERNMENT.
EXHIBIT R6(d)	TRUE COPY OF THE PETITION SUBMITTED BY THE 2ND PETITIONER BEFORE THE CHAIRMAN, UPSC DATED 08/2020.
EXHIBIT R6(e)	TRUE COPY OF THE REVISED GRATUITY PAYMENT ORDER OF THE 1ST PETITIONER DATED 06.02.2020 ISSUED BY THE ACCOUNTANT GENERAL