

X-

ITEM NO.41

COURT NO.13

SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).9680/2012

(From the judgement and order dated 25/11/2011 in WP No.5741/2011 of The
HIGH COURT OF MADRAS)

C. MANOHARAN

Petitioner(s)

VERSUS

S. VIJAYALAKSHMI & ORS.

Respondent(s)

(With appln(s) for permission to file additional documents and prayer for
interim relief and office report)

WITH SLP(C) NO. 12830 of 2012

(With appln. for c/delay office report)

Date: 31/01/2014 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SUDHANSU JYOTI MUKHOPADHAYA
HON'BLE MR. JUSTICE KURIAN JOSEPH

For Petitioner(s)

Mr. P.S. Narashima, Sr. Adv.
Mr. B. Raghunath, Adv.
Mr. Vijay Kumar, Adv.

For Respondent(s)

Mr. Subramonium Prasad, AAG
Ms. Neha Agarwal, Adv.
Mr. R. Rakesh Sharma, Adv.
Mr. B. Balaji, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.
The appeals are allowed in terms of the signed
order.

[NEETA]
SR. P.A.

[USHA SHARMA]
COURT MASTER

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 1790 OF 2014
(Arising out of SLP (C) No. 9680 of 2012)

WITH

CIVIL APPEAL NO. 1791 OF 2014
(Arising out of SLP(C) NO. 12830 of 2012)

C. MANOHARAN

... Appellant (s)

VERSUS

S. VIJAYALAKSHMI & ORS.

... Respondent(s)

O R D E R

Leave granted.

These appeals have been preferred by the appellants against the judgment and order dated 25th November, 2011 passed by the Division Bench of the High Court of Judicature at Madras in W.P. No. 5741 of 2011. By the impugned judgment, the High Court allowed the writ petition preferred by a respondent S.Vijayalakshmi and held that "the manner in which the date for convening the Meeting of the Selection Committee was fixed and the decision of the Committee recommending respondents 3 to 5 herein for appointment as State Information Commissioners is wholly arbitrary, capricious and against the methodology be to followed in the matter of such appointments." The notification dated 1st March, 2011 appointing the appellant and others as State Information Commissions was quashed.

-2-

The grievance of the appellant is that though the appellant has raised the question relating to the nature and scope of consultation with the Leader of Opposition in regard to the appointment of Information Commissioner of a State under Section 15(3) of the Right to Information Act before the High Court, the High Court passed the impugned order without answering the same.

According to learned counsel for the appellant though the Leader of Opposition was duly notified and requested to attend the meeting for selection and appointment of State Information Commissioners but the Opposition Leader refused to attend the meeting.

Learned counsel appearing on behalf of the respondents referred the impugned judgment and submitted that the meeting was convened in haste. However, it is accepted that the question relating to the effect of refusal of Opposition Leader to attend the selection process and the interpretation of Section 15(3) of the Right to Information Act, 2005 was not discussed and decided by the High Court.

Having heard learned counsel for the parties, we are of the view that the High Court ought to have decided the question relating to the nature and scope of consultation with the Leader of Opposition in matters relating to the appointment of Information Commissioner of a State as envisaged under Section 15(3) of the Right to Information Act and was also required to decide the effect of selection, in case of Opposition Leader without any valid reason chose not to attend the meeting or refused to attend the meeting and in such case whether such selection/appointment can be held to be vitiated for non-consultation.

-3-

In view of the aforesaid finding, we set aside the aforesaid order dated 25th November, 2011 passed by the High Court and remit back W.P. No. 5741 of 2011 to the High Court of Madras for fresh decision on merit. Taking into consideration, the nature of the case, we hope and trust that the High Court will decide the matter expeditiously.

The appeals are allowed with aforesaid observations.

.....J.
(SUDHANSU JYOTI MUKHOPADHAYA)

.....J.
(KURIAN JOSEPH)

NEW DELHI ;
JANUARY 31, 2014