



TELEPHONE: 011-2338 3093  
FAX: 011-2338 7293  
Email: law.icar@nic.in

**INDIAN COUNCIL OF AGRICULTURAL RESEARCH**  
Krishi Bhavan, Dr. Rajendra Prasad Road, New Delhi-110 001

1st Sept, 2016

F.No.19-2/2010-Law

To

All Institutes of ICAR

Sub: Order dated 28.6.2016 passed by Hon'ble High Court of Kerala in Writ Petition (C) No. 11562 of 2010- Regarding.

Sir,

Hon'ble High Court of Kerala has passed an order dated 28.6.2016 in Writ Petition (C) No. 11562 of 2010 filed by CPCRI Employees Association. The case relates to recognition of association formed by employees of CPCRI, Kasargod. Hon'ble High Court has dismissed the petition on grounds mentioned in the order. Copy of the order is enclosed for guidance in such matters which may arise in other institutes also .

Yours faithfully,

( S.K. Singh )  
Legal Advisor

Copy to :

1. All SMDs, ICAR
2. DKMA for uploading on ICAR website.

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHMED MUSTAQUE

TUESDAY, THE 28TH DAY OF JUNE 2016/7TH ASHADHA, 1938

WP(C).No. 11562 of 2010 (U)

PETITIONER(S):

1. V.RADHAKRISHNAN  
S/O.KUNHAMBU, LAB. ATTENDANT (SUPPORTING SKILLED), ,  
CPCRI, KASARAGOD, RESIDING AT MULIYAR, VANURATH VEEDU, POST IRIYANI.  
(PRESIDENT CPCRI EMPLOYEE'S, ASSOCIATION)

2. K.N.RADHAKRISHNAN NAMBIAR, T-3,  
TECHNICAL ASSISTANT, CPCRI, KASARAGOD. RESIDING AT,  
PAYYANNUR. (GENERAL SECRETARY, CPCRI EMPLOYEE'S, ASSOCIATION).

BY ADV. SRI.P.V.MOHANAN

RESPONDENT(S):

1. THE PRESIDENT, INDIAN COUNCIL OF  
AGRICULTURAL RESEARCH (MINISTER FOR AGRICULTURE), , KRISHI  
BHAWAN, DR. RAJENDRA PRASAD ROAD, , NEW DELHI-110 001.

2. THE DIRECTOR GENERAL, INDIAN COUNCIL  
OF AGRICULTURAL RESEARCH, KRISHI BHAWAN, , DR. RAJENDRA  
PRASAD ROAD, NEW DELHI-110 001.

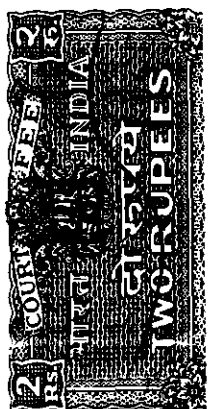
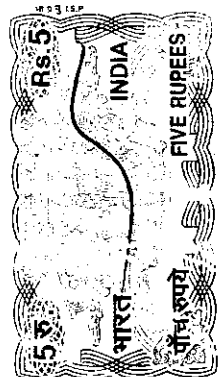
3. THE DIRECTOR, CENTRAL PLANTATIONS CROPS  
RESEARCH INSTITUTE, KASARAGOD. POST MOGRAL PUTHOOR.

Addl. 4. P. MADHAVAN NAIR,  
S/O LATE P. RAMAN NAIR, SKILLED SUPPORTING STAFF, CENTRAL  
PLANTATION CROPS RESEARCH INSTITUTE, KASARAGOD, PIN - 671 128.

Addl. 5. M. KRISHNA  
S/O K. NARAYANA, SKILLED SUPPORTING STAFF, CENTRAL  
PLANTATION CROPS RESEARCH INSTITUTE, KASARAGOD, PIN - 671 128.

R1-3 BY ADV. SRI.T.P.SAJAN, SC, ICAR  
R1 BY ADV. SRI.VIVEK VARGHESE P.J.  
R1 BY ADV. SRI.VARUGHESE M EASO  
R1 BY ADV. SRI.P.J.VINOD JOSEPH  
ADDL.4-R5 BY ADV. SRI.P.K.MADHUSOODANAN  
ADDL.4-R5 BY ADV. SRI.P.M.BINOY KRISHNA  
BY SRI.T.P.SAJAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
28-06-2016, ALONG WITH WPC. 8967/2005, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:



**A. Muhamed Mustaque, J.**

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W.P.(C)Nos.8967/2005 & 11562/2010

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Dated this the 28<sup>th</sup> day of June, 2016.

**JUDGMENT**

1. These writ petitions were filed by the President and Secretary of the Central Institute of Fisheries Technology Employees Federation, a trade union, aggrieved by the withdrawal of defacto recognition accorded to the union by the Indian Council of Agricultural Research (ICAR).
2. Petitioners claim that, more than 60% of Class-III and Class-IV employees of Central Institute of Fisheries Technology, an institute of Indian Council of Agricultural Research, are the members of the above union. ICAR granted defacto recognition to the union on

7.4.1979 by Ext.P4. The said recognition is subject to the following conditions:

*"If, in the opinion of ICAR, the Federation has failed to comply with any of the conditions set out above, the Council may withdraw the recognition accorded to the Federation.*

*Notwithstanding anything contained in this letter, the ICAR reserves the right to rescind or withdraw the defacto recognition in consonance with any general decision of policy or for any other reason that the Council may deem good and sufficient."*

3. However, as per the proceedings in Exts.P1 and P2, the recognition granted to the union has been withdrawn. The said decision is under challenge in this writ petition.
4. The reason for withdrawal, as seen from the impugned proceedings as well as from the counter, is that, a full fledged Central Joint Staff Council of ICAR and grievance cell are functioning in the system and therefore there is no necessity for further recognition of another union.

5. The main challenge raised by the learned counsel for the petitioners, Sri.P.V.Mohanan, after citing a number of judicial precedents, is that, no condition, as referred to in Ext.P4, has been violated by the union and employer cannot have a discretion in giving recognition to the union. It is further argued that, de-recognition violates fundamental rights guaranteed under Article 19(1)(c) of the Constitution. On the other hand, learned Senior Counsel appearing for the respondents Sri.P.Jacob Varghese, would argue that, there is no fundamental right conferred on the union to have a recognition from the employer and a decision was taken as a policy decision of the institute.
6. First of all, this Court has to examine whether there is any violation of fundamental rights. The right to form a union is a fundamental right guaranteed under Article 19(1)(c) of the Constitution. But, nevertheless, it does not take in a right to have a recognition. There is no corresponding obligation or duty on the part of the employer to recognize the association or union in their establishment. The

Hon'ble Supreme Court in *Raghubar Dayal Jai Prakash v. Union of India* (AIR 1962 SC 263) held as follows:

*"We consider this argument is without force. In the first place, the restriction imposed by S. 6 of the Act is for the purpose of recognition and no association is compelled to apply to the Government for recognition under that Act. An application for the recognition of the association for the purpose of functioning under the enactment is a voluntary act on the part of the association and if the statute imposes conditions subject to which alone recognition could be accorded or continued, it is a little difficult to see how the freedom to form the association is affected unless, of course, that freedom implies or involves a guaranteed right to recognition also. Could it be contended that there is a right in the association guaranteed by the Constitution to obtain recognition? It was not disputed before us that forward trading might sometimes assume undesirable forms and become akin to gambling which might have deleterious consequences on lawful trade and on the general public by causing violent fluctuations in prices. It would follow that the control of forward trading is a legitimate subject of legislative interference and regulation and we might add that this was not disputed before us. The manner in which"*

*this regulation is effected and the machinery employed for achieving it are matters of legislative policy which could be determined only by taking into account the organisation of the market, the manner of trading and other relevant factors. "*

7. This Court in ***Kerala Minerals Employees Congress v. Asst. Labour Commissioner & Others*** (1983 KLT 176) held as follows:

*"There is no statutory right vesting in any union to compel the management to recognise the union, The union could raise an industrial dispute in regard to the non-recognition. As pointed out in Para.5 of the counter affidavit, the Fifteenth Indian Labour Conference has accepted a Code of Discipline and one of the clauses of the Code refers to recognition of unions. A union which has been in active existence for one year and which commands loyalty of not less than 15% of the employees has to be recognised.*

8. Thus, a right to form a union guaranteed under Art.19(1)(c) does not include a right to have a recognition from the employer. Therefore, there is no violation of fundamental right of the petitioner.

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9. Second question is, whether there is any violation of existing policy or rules in regard to granting recognition and withdrawing recognition. In the counter filed by the respondents, in para. 5, it is stated as follows:

*"With regard to para.4 and 5, it is submitted that the Indian Council of Agricultural Research in letter No.0-39/95 Per IV dt.10.10.1994 (Ext.P7) forwarded a copy of Government of India, Department of Personnel & Training Office Memorandum No.2-10/80 JCA dated 9.11.1993 enclosing copy of Central Civil Services (Recognition of Service Association) Rules, 1993 and stated that the said Rules are applicable to the employees of Indian Council of Agricultural Research also. Indian Council of Agricultural Research also wanted the said rules to be brought to the notice of employees under it. The request for recognition of Service Association of the employees be examined in terms of the said rules and forwarded to the Indian Council of Agricultural Research with specific recommendations for or against the recognition. The application submitted by the Central Institute of Fisheries Technology Employees Federation was forwarded to Indian Council of Agricultural Research*



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*for consideration. However, later in letter No.10-39/95 Per IV dt.24.4.1995 (produced and marked as Ext.P5), Indian Council of Agricultural Research stated that there are Joint Staff Councils (JSC) and Employees Grievance Cells in all the Indian Council of Agricultural Research Institutes as well as at Headquarters at New Delhi for considering the grievances of common nature as well as the grievances of Individual employees both at the institutes and the Headquarters and also the Central Joint Staff Council (CJSC) to cater to the needs of the employees of Indian Council of Agricultural Research as a whole. It was also stated in the said letter that the competent authority at the Indian Council of Agricultural Research has decided that in the case of Indian Council of Agricultural Research employees whose grievances are being handled by the Joint Staff Council and Grievance Cell, the Central Civil Services (Recognition of Service Association) Rules, 1993 circulated by Department of Personnel & Training O.M. Dated 9.11.1993 will not be applicable and they will continue to seek redressal of their grievance through the forums of Joint Staff Council and Grievance Cell of the respective Institute and Indian Council of Agricultural Research headquarters and accordingly the Central Civil Services (Recognition of*

*Service Association) Rules, 1993 circulated vide Indian Council of Agricultural Research letter dt.10.01.1994 were withdrawn with immediate effect. That means that the said rules are no longer applicable to the Indian Council of Agricultural Research employees. In the light of instructions contained in Council's letter dt.24.04.1995, respondent No.3 issued Ext.P10 de-recognizing the two organizations including the petitioner Federation".*

10.This would show that a decision to implement Central Civil Service (Recognition of Service Association) Rules, 1993 is no longer in existence in application to the ICAR employees. In the light of the above statement, the decision to withdraw is only a policy decision. The question is whether this policy has been exercised arbitrarily or not.

11.It is to be noted that, while granting recognition to the petitioners' union, it was stipulated that, recognition would depend upon general policy decision. A policy has been taken at a higher level meeting not to give recognition to any service association in the wake of

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CJSC, IJSC and Grievance Cell existing in the system, to address the issues concerning the welfare of staff. The said policy cannot be termed as arbitrary, irrational or perverse. In such circumstances, based on the condition for granting recognition, it is open for the respondents to withdraw the recognition. Thus, the writ petitions must fail and it is accordingly dismissed.

sd/-

**A. Muhamed Mustaque, Judge.**

sl.

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wpc 11562/2010

APPENDIX

PETITIONERS' EXTS:

EXT.P1- TRUE COPY OF PROCEEDINGS F.NO.6517/99 CONFL.DATED 18.3.2010.

EXT.P2- TRUE COPY OF THE EXTRACT OF CLAUSE 30 & 31 OF THE BYE-LAWS.

EXT.P3- TRUE COPY OF PROCEEDINGS DT.22.3.1978.

EXT.P4- TRUE COPY OF THE EXTRACT OF MINUTES OF THE 2ND MEETING OF THE CJSC.

EXT.P5- TRUE COPY OF THE RULE 1993.

EXT.P6- TRUE COPY OF PROCEEDINGS DATED 10.1.1994.

EXT.P7- TRUE COPY OF PROCEEDINGS F.NO.10-39/95 PER.IV DATED 24.4.1995.

EXT.P8- TRUE COPY OF THE NOTICE NO.15(4)2/977-CONFL.DATED 11.12.1998.

EXT.P9- TRUE COPY OF THE JUDGMENT IN O.P.6517/199 DATED 21.11.2005.

EXT.P10- TRUE COPY OF THE NOTICE F.NO.6517/99 CONFL.DATED 7.10.2009.

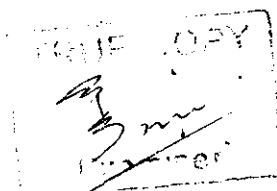
EXT.P11- TRUE COPY OF THE EXPLANATION DT.19.10.09.

EXT.P12- TRUE COPY OF THE EXTRACT OF JOINT STAFF COUNCIL SCHEME ADOPTED BY THE INDIAN COUNCIL OF AGRICULTURAL RESEARCH CONTAIN IN PAGE 79 OF THE BOOK.

/TRUE COPY/

P.S.TO JUDGE.

sl.



HIGH COURT OF KERALA  
AT ERNAKULAM

Year and Number of Suit or  
other Proceedings WPR 21562 / 2016  
Name of Applicant/Advocate SRI MIVAN VARGHESE  
P.J.

Application Number A 41467/2016 /

Application Date 29-06-2016 /

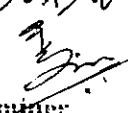
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Examiner