

STATE OF KERALA & ANR.

v.

PROF. D. GOPALAKRISHNA PILLAI & ORS.

(Civil Appeal No. 5907 of 2008)

SEPTEMBER 30, 2008

**[DR. ARIJIT PASAYAT AND DR. MUKUNDAKAM
SHARMA, JJ.]**

Precedent – Writ petition – Allowed by Single Judge as well as Division Bench of High Court – State placing reliance on judgment of Supreme Court in an identical matter – Remitted to Division Bench of High Court to decide the issue on the basis of the decided cases in identical matters.

State of Kerala v. P.V. Neelakandan 2005 (5) SCC 561 – relied on.

CIVILAPPELLATE JURISDICTION : Civil Appeal No. 5907 of 2008

From the final Judgment and Order dated 19.7.2005 of the High Court of Kerala, at Ernakulam in W.A. No. 1432 of 2005

WITH

C.A. No. 5908 of 2008

T.L.V. Iyer, G. Prakash and Beena Prakash for the Appellants.

P.K. Manohar for the Respondent.

The Judgment of the Court was delivered by

DR. ARIJIT PASAYAT, J. 1. Leave granted.

2. Challenge in these appeals is to the judgment of a Division Bench of the Kerala High Court dismissing the appeal filed by the State. Before the High Court it was contended that the decision of the full Bench of the High Court in *Accountant Gen-*

A *eral v. Kunjamma* [2003 (3) KLT 345] relied on by learned Single Judge was in appeal before this Court and an order of stay of the said Court had been passed. But, the High Court was of the view that in view of the decision of the Full Bench the writ appeal was without merit.

B 3. It is submitted that the High Court's judgment is dated 19.7.2005, while the identical issue came up for consideration in *State of Kerala v. P.V. Neelakandan* [2005(5) SCC 561], which was decided on 11.7.2005.

C 4. Learned counsel for the appellant submitted that the view expressed in C.A. No. 2907 of 2005 decided on 22.2.2007 has also relevance.

D 5. We are of the view that the case at hand needs to be decided in line with what has been stated in *P.V. Neelakandan's* case (supra) and in C.A. 2907 of 2005. We, therefore, remit the matter to the High Court to hear the matter afresh and decide the writ appeal in the light of what has been stated by this Court in the aforesaid two decisions.

E 6. The appeal is disposed of accordingly.

K.K.T.

Appeals disposed of.