

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR.JUSTICE K. HARILAL

MONDAY, THE 9TH DAY OF MARCH 2015/18TH PHALGUNA, 1936

OP (KAT) .No. 3619 of 2013 (Z)

AGAINST THE ORDER IN TA 2474/2012 of KERALA
ADMINISTRATIVETRIBUNAL, THIRUVANANTHAPURAM DATED
16-08-2013.

PETITIONER(S) :

T.PUSHPARAJ,
DEPUTY DIRECTOR OF SURVEY AND LAND RECORDS,
KOTTAYAM,
SURVEY AND LAND RECORDS DEPARTMENT,
GOVERNMENT OF KERALA, RESIDING AT VADEKKEVILA
VEEDU, KUTHIRA KULAM P.O., VEMBAYAM,
THIRUVANANTHAPURAM.

BY ADVS.SRI.NAGARAJ NARAYANAN
SRI.SAIJO HASSAN
SRI.BENOJ C AUGUSTIN
SRI.SEBIN THOMAS
SRI.P.E.SAJAL
SRI.VIVEK V. KANNANKERI

RESPONDENT(S) :

1. STATE OF KERALA,
REPRESENTED BY ADDITIONAL CHIEF SECRETARY,
REVENUE DEPARTMENT, GOVERNMENT OF KERALA,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. ADDITIONAL CHIEF SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

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3. DIRECTOR,
VIGILANCE AND ANTI CORRUPTION BUREAU,
THIRUVANANTHAPURAM-695033.

R1,R2 & 3 BY SENIOR GOVERNMENT PLEADER
SRI. VIJU THOMAS

THIS OP KERALA ADMINISTRATIVE TRIBUNAL HAVING
BEEN FINALLY HEARD ON 09-03-2015, THE COURT ON THE SAME
DAY DELIVERED THE FOLLOWING:

OP(KAT) .No. 3619 of 2013 (Z)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1- TRUE COPY OF THE ORDER NO. GO(RT)NO.
2748/11/RD DATD 30-6-2011.

EXHIBIT P2- TRUE COPY OF THE JUDGMENT DATED 09-08-2005 IN
WPC 9800/1997 DATED 9-08-2005.

EXHIBIT P3- TRUE COPY OF ORDER IN RP.NO. 756/2005 DATED
8-12-2005.

EXHIBIT P4- TRUE COPY OF THE CONTENTS OF THE ORDER DATED
27-05-2006.

EXHIBIT P5- TRUE COPY OF THE LETTER DATED 13-6-2000
ISSUED BY THE SECRETARY, LAND BOARD TO THE DISTRICT
COLLECTOR, WAYANAD.

EXHIBIT P6- TRUE COPY OF THE LETTER DATED 01-08-2001
ISSUED BY THE SECRETARY, LAND BOARD TO THE 1ST
RESPONDENT.

EXHIBIT P7- TRUE COPY OF LETTER DATED 26-9-2001 ISSUED BY
THE SECRETARY, LAND BOARD TO DISTRICT COLLECTOR, WAYANAD.

EXHIBIT P8- TRUE COPY OF THE LETTER ISSUED BY THE
SECRETARY, LAND BOARD DATED 01-06-2002.

EXHIBIT P9- TRUE COPY OF THE LETTER ISSUED BY TAHSILDAR,
VYTHIRI DATED 5-12-2001.

EXHIBIT P10- TRUE COPY OF THE LETTER ISSUED BY THE
DEPUTY DIRECTOR OF SURVEY ALONG WITH SKETCH DATED
14-03-2003.

EXHIBIT P11- TRUE COPY OF THE LETTER NO. B2,26973/99
ISSUED BY THE ADDL. DIRECTOR OF SURVEY DATED NIL.

EXHIBIT P12- TRUE COPY OF THE DETAILED REPORT ISSUED BY
THE DEPUTY DIRECTOR OF SURVEY DATED 30-01-2004.

EXHIBIT P13- TRUE COPY OF THE COUNTER AFFIDAVIT IN O.P.
11896/98 DATED 6-12-2004.

EXHIBIT P14- TRUE COPY OF THE COUNTER AFFIDAVIT IN WPC
NO. 33991/2004 DATED 20-01-2005.

EXHIBIT P15- TRUE COPY OF THE WRITTEN STATEMENT IN OS NO.
100/2006 DATED 4-6-2007.

EXHIBIT P16- TRUE COPY OF THE WRITTEN STATEMENT IN O.S.
101/2006 DATED 4-6-2007.

EXHIBIT P17- TRUE COPY OF THE COMPLAINT SUBMITTED BY
SHRI. A.K.KOYA TO THE PETITIONER DATED 12-12-2006.

EXHIBIT P18 - TRUE COPY OF VIGILANCE REPORT DATED
18-01-2011 OF DEPUTY SUPERINTENDENT OF POLICE, VIGILANCE
& ANTI-CORRUPTION BUREAU, WAYANAD.

EXHIBIT P19- TRUE COPY OF LETTER DATED 09-02-2011 OF
SUPERINTENDENT OF POLICE, VIGILANCE & ANTI-CORRUPTION
BUREAU, NORTHERN RANGE, KOZHIKODE.

EXHIBIT P20- TRUE COPY OF LETTER DATED 28-03-2011 OF
3RD RESPONDENT.

EXHIBIT P21- TRUE COPY OF LETTER DATED 07-05-2011 ISSUED
BY THE 1ST RESPONDENT.

EXHIBIT P22 - TRUE COPY OF THE SAID REPRESENTATION DATED
01-07-2011.

RESPONDENT(S) ' EXHIBITS

NIL

//true copy//

P.S. to Judge

**THOTTATHIL B. RADHAKRISHNAN &
K. HARILAL, JJ.**

O.P. (KAT) No.3619 of 2013

Dated this the 9th day of March, 2015

JUDGMENT

Thottathil B. Radhakrishnan, J.

We heard the learned counsel for the petitioner and the learned Government Pleader.

2. The petitioner is a Deputy Director of Survey and Land Records. He was placed under suspension on 30/6/2011. He challenges the decision of the Kerala Administrative Tribunal refusing to interfere with the further proceedings on the basis of Memo of Charges on certain allegations. By the time the Tribunal heard the matter, the petitioner stood re-admitted to duty revoking the suspension. The only question that, therefore, remains for consideration is as to whether the disciplinary proceedings should be permitted to go on.

3. The pointed plea of the petitioner is that he was only exercising the statutory powers and adjudicatory

functions in terms of the provisions of the Kerala Survey and Boundaries Act and, therefore, any person aggrieved by the decisions, so rendered, will have to obtain appropriate orders from the superior, appellate or revisional authorities. In fact, it is a matter of record that the original suits were pending touching the issues regarding the correctness of the decisions rendered by the petitioner. The written statements filed in those cases, which were produced before the Tribunal, clearly indicate that the State Government had supported the action taken by the petitioner in the statutory proceedings.

4. While we are in agreement with the views of the learned Tribunal, as expressed in paragraph-4 of its order, regarding the liability of Judges and Officers discharging the judicial functions, we see no such material available in the case in hand, particularly because, as noted above, the State Government stands to support the decisions of the petitioner even in the civil court. If that be so, the only public interest and the interest of the State that needs to be protected is its eligibility to be compensated in the event of any loss occurring as a result of conduct of the petitioner which could fall within the parameters of what could be called as reckless, negligent and calculatedly deflected actions under the cover of judicial or quasi-

judicial power.

5. In the aforesaid format of facts, we do not think it necessary for further disciplinary proceedings being carried on to find out whether the petitioner had violated any statutory provision while deciding the statutory appeals etc., more particularly because, the Vigilance and Anti Corruption Bureau had concluded that no case of corruption has been made out and that there is no reason to register a criminal case against him.

6. For the aforesaid reasons, we set aside the order of the Tribunal and also the impugned disciplinary proceedings and clarify that if, ultimately, the Government is visited by any pecuniary loss relateable to the actions of the petitioner, and if those actions are referable to negligent, reckless or calculated activities of the petitioner, the Government will be at liberty to initiate action to recover such amounts from him in accordance with law.

This original petition is ordered accordingly.

Sd/-

(THOTTATHIL B. RADHAKRISHNAN, JUDGE)

Sd/-

(K. HARILAL, JUDGE)

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P.S. to Judge