

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 16TH DAY OF NOVEMBER 2015/25TH KARTHIKA, 1937

RP.No. 925 of 2015 (J)

(AGAINST THE JUDGMENT IN WP(C).NO. 25098/2015 DATED 21-08-2015)

REVIEW PETITIONER/PETITIONER:

**SREEJA K.MENON,
MATHILAKOM HOUSE, MARUTHUR P.O,
MELE PATTAMBI,PALAKKAD DIST- 679 306.**

**BY SRI.K.JAJU BABU,SENIOR ADVOCATE
ADV. SMT.M.U.VIJAYALAKSHMI**

RESPONDENT(S)/RESPONDENTS:

- 1. ONGALLUR GRAMA PANCHAYAT,
KALLADIPATTA P.O, ONGALLUR-679 313,
REPRESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY,
ONGALLUR GRAMA PANCHAYAT, KALLADIPATTA P.O.,
ONGALLUR-679 313**

BY SRI.A.HAROON RASHEED

**THIS REVIEW PETITION HAVING COME UP FOR ADMISSION
ON 16-11-2015, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:**

sts

R.P.NO.925/2015

APPENDIX

PETITIONER'S ANNEXURES:

- ANNEX A** **COPY OF THE PROCEEDINGS DATED 8/9/2015 OF THE 1ST RESPONDENT.**
- ANNEX B** **COPY OF THE I.A.NO.367/2015 DATED 28/9/2015 ALONG WITH AFFIDAVIT IN CONT. CASE NO.1359/2015 FILED BY THE 2ND RESPONDENT**
- ANNEX C** **COPY OF THE REPLY LETTER NO.A5/5439/15 DATED 30/9/2015 ISSUED UNDER THE RIGHT TO INFORMATION ACT TO ONE SRI.MOHAMMED MUSTHAFFA**
- ANNEX D** **COPY OF THE INTERIM ORDER DATED 6/7/2015 OF THIS HON'BLE COURT IN WP(C).NO.18535/2015**
- ANNEX E** **COPY OF THE LETTER DATED 26/11/2014 RECEIVED BY THE PETITIONER FROM THE OIL COMPANY.**

RESPONDENT'S ANNEXURES: NIL

/TRUE COPY/

P.A.TO JUDGE

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A.V.RAMAKRISHNA PILLAI, J.

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R.P No.925 of 2015

in W.P(C) No.25098 of 2015

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Dated this the 16th day of November, 2015

ORDER

The petitioner is a women entrepreneur. As per Ext.P1, she was sanctioned with a LPG dealership and by Ext.P2, the first respondent issued building permit also. The petitioner alleges that she was issued with the permit, after complying with other statutory formalities, and on the basis of the same, she completed the construction.

2. The petitioner points out that on 22.4.2015 she made a request for numbering the building which was rejected as per Ext.P7. Ext.P7 was challenged in W.P(C) No.16481 of 2015 and this Court as per Ext.P8 directed the respondents to provisionally number the building and to issue occupancy certificate. Pursuant to the same, number has been granted. However, when Ext.P9 application was submitted for licence, the same was rejected as per Ext.P10 stating the very same reasons in Ext.P7.

3. The petitioner further points out that as per the judgment dated 21.8.2015, this Court directed the panchayat to reconsider the application of the petitioner *de hors* Ext.P10. However, as per

Annexure A, the panchayat issued the very same decision. The petitioner further points out that when contempt proceedings were initiated, the 2nd respondent took the stand that he cannot comply with the judgment of this Court since the direction is to the panchayat. It is with this background, the petitioner has approached this Court.

4. Arguments have been heard.

5. The learned Senior Counsel for the petitioner would submit that as per the provisions contained in Sections 95 and 236 of the Kerala Panchayat Raj Act, licence is to be issued by the 2nd respondent. According to the learned Senior Counsel, the panchayat committee or the president may be the competent authority to take a decision and issue orders in the matter of grant of licence. However, the statutory authority in whose name the licence is issued is the secretary of the panchayat himself.

6. Under the above circumstances, the direction in the judgment to the respondent panchayat is erroneous and needs to be corrected as a direction to the 2nd respondent, in view of Annexures A to D. I see valid force in the said submission made by the learned Senior Counsel for the petitioner.

8. As the direction to the respondent panchayat has resulted in miscarriage of justice to the petitioner, the same has to be corrected.

Therefore, the review petition is allowed. The direction in the impugned judgment asking the panchayat to reconsider the application is recalled. In supersession of the said direction, the 2nd respondent is directed to issue licence to the LPG Gas Agency of the petitioner pursuant to Ext.P1 within a period of two weeks from the date of receipt of a copy of this order.

The aforesaid direction shall be complied with by the respondent concerned in letter and spirit within the period specified above.

Sd/-
A.V.RAMAKRISHNA PILLAI
JUDGE

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//true copy//

P.A to Judge