

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 4TH DAY OF NOVEMBER 2015/13TH KARTHIKA, 1937

RP.No. 1010 of 2015 IN WP(C).29404/2015

AGAINST THE JUDGMENT IN WP(C) 29404/2015 of HIGH COURT OF KERALA
DATED 30-09-2015

REVIEW PETITIONER/3RD PARTY:

N. HARIDAS, S/O. LATE K. NARAYANAN, AGED 48 YEARS,
PRESIDENT, PARENT TEACHERS ASSOCIATION, GOVT. MOYEN MODEL
GIRLS HIGHER SECONDARY SCHOOL, PALAKKAD, RESIDING AT DOOR
No.10/80, PRABHATH BUILDING, DIARA STREET, PALAKKAD.

BY ADV. SRI.JACOB SEBASTIAN

RESPONDENTS/WRIT PETITIONER AND RESPONDENT:

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1. USHAKUMARI, W/O. GOPI, AGED 40 YEARS,
RESIDING AT KANNADI, THAREKKAD, PALAKKAD,
PIN - 678 001.
 2. PALAKKAD MUNICIPALITY, REPRESENTED BY ITS SECRETARY,
MUNICIPAL OFFICE, PALAKKAD 678 001.

R1 BY SRI.S.KANNAN

R2 BY SRI.T.C.SURESH MENON

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
04-11-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.BHAVADASAN, J.

R.P. No. 1010 of 2015

Dated this the 4th day of November, 2015.

ORDER

Under review is the order dated 30.9.2015 in W.P.(C) 29404 of 2015.

2. The petitioner in the writ petition filed Ext.P4 application and complained that no orders had been passed on that application and in view of Section 447(6) of the Kerala Municipality Act, the petitioner should be deemed to have been granted a licence. This Court found the claim to be prima facie true and passed the following judgment:

“This writ petition is disposed of directing the respondent to dispose of Ext.P4 application filed by the petitioner strictly in accordance with law within a period of 15 days from the date of receipt of a copy of this judgment. In the meanwhile, by virtue of Section 447(6) of Kerala Municipality Act, the petitioner is permitted to run the canteen as before till further orders are issued in that regard.”

3. The petitioner in the review petition, who is a stranger to the proceedings, points out that the above

judgment was obtained concealing true facts and it needs to be reviewed. It is pointed out that there was no proper application for renewing the licence and therefore this Court was misled into passing the above order. It is also contended that Kudumbasree is now running the canteen and on the basis of the order passed by this Court, the writ petitioner is trying to force them out of the premises. Therefore the PTI President has come up with this review petition.

4. Today, when the matter was taken up for hearing, a copy of the order passed by the Secretary of the Municipality dated 2.11.2015 is made available for perusal. It is pointed out that in the said order the reference shown is application dated 3.10.2015. From this it is clear that till 3.10.2015 there was no application for renewal of the licence and therefore the claim made by the writ petitioner that there is an application in the form of Ext.P4 cannot be true. It is further contended that by misleading this Court that order was obtained from this Court.

5. This Court is not able to understand the second paragraph of the order dated 2.11.2015 passed by the Secretary of the Municipality. In the said paragraph, it is mentioned as follows:

"20.07.2015-ൽ നടത്തിയ ഹിയറിംഗിൽ നിർദ്ദിഷ്ട ഫോറത്തിൽ അപേക്ഷ നൽകിയ 03.10.2015-നാണ് എന്ന് താങ്കൾ സമ്മതിച്ചിട്ടുള്ളതാണ്."

Obviously there must be some error in the date shown as 29.07.2015. For, hearing, if any, conducted on 29.07.2015, it could not have admitted that he had filed the proper application on 3.10.2015. Whatever that be, the order dated 2.11.2015, the Secretary of Municipality has allowed the petitioner in the writ petition to conduct the milma booth/canteen subject to certain conditions.

6. May be that Ext.P4 is not in the proper form or that Ext.P4 has not even been filed. There is no clear evidence in this regard before this Court. Whatever that be, in view of the order now passed, it could not be said that the writ petitioner is going to run the canteen on the basis of the judgment of this Court. Therefore, review of the

order does not arise for consideration at all.

7. It is made clear that in case the writ petitioner is going to run the canteen, it will not be on the basis of the judgment passed by this court in the writ petition.

This Review Petition is disposed of as above.

P.BHAVADASAN,
JUDGE

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