

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE ANIL K.NARENDRA

FRIDAY, THE 10TH DAY OF JULY 2015/19TH ASHADHA, 1937

WP(C).No. 1828 of 2009 (P)

PETITIONER :

WADAKKANCHERY GRAMA PANCHAYATH (SPECIAL GRADE),
REPRESENTED BY ITS SECRETARY,
G.SIVARAJAN, WADAKKANCHERY P.O., WADAKKANCHERY,
PIN 680 582, THRISSUR DISTRICT.

BY ADVS.SRI.P.GOPALAKRISHNAN NAIR
SRI.M.SREEKUMAR

RESPONDENT :

THRINETHRA SUPER RETAIL PVT. LTD.,
10/256 A AND B, OPPOSITE G.M.MOTORS, NETTOOR,
KOCHI, REPRESENTED BY AUTHORISED SIGNATORY,
BIJU JOSE THOMAS.

BY ADV. SRI.A.KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :-

- EXT.P1 : COPY OF THE LETTER NO.C3 125/07 DTD.7.12.07 TO THE RESPONDENT.
- EXT.P2 : COPY OF LETTER NO.C-125/07 DTD.3.3.08 TO THE RESPONDENT.
- EXT.P3 : COPY OF NOTICE NO.C-125/07 DTD.12.8.08 TO THE RESPONDENT.
- EXT.P4 : COPY OF THE PROCEEDINGS OF THE PETITIONER DTD.30.8.08 IN EXT.P3.
- EXT.P5 : COPY OF THE MEMO FILED BY THE RESPONDENT DTD.8.9.08 BEFORE THE PETITIONER.
- EXT.P6 : COPY OF THE LETTER DTD.19.4.08 FROM THE RESPONDENT TO THE PETITIONER.
- EXT.P7 : COPY OF THE DECISION OF THE PETITIONER DTD.29.9.08.
- EXT.P8 : COPY OF THE ORDER NO.C-125/07 DTD.17.3.08 OF THE PETITIONER.
- EXT.P9 : COPY OF THE DETAILED REPLY FILED BY THE PETITIONER IN R.P.NO.110/08 BEFORE THE TRIBUNAL FOR LSGD, TVM. DTD.25.10.08.
- EXT.P10 : COPY OF THE ORDER IN R.P.No.110/08 BEFORE THE TRIBUNAL FOR LSGD, TVM. DTD.26.11.08.

RESPONDENT'S EXHIBITS : NIL.

True copy

P.A to Judge

ANIL K.NARENDRA, J.

W.P.(C)No.1828 of 2009

Dated this the 10th day of July, 2015

JUDGMENT

This writ petition has been filed by Wadakkanchery Grama Panchayat seeking a writ of certiorari to quash Ext.P10 order passed by the Tribunal for Local Self-Government Institutions, Thiruvananthapuram in R.P.No.110 of 2008.

2. Going by the averments in the writ petition, the respondent applied for a licence for starting a super market in building No.15/268D in Damodhar Chambers, near Boys High School, Wadakkanchery, within the area of Wadakkanchery Grama Panchayat. The said application was filed on 13.11.2007, to which the Panchayat sent a reply pointing out the necessary requirements for granting licence, which the respondent has to provide in the premises and then to inform the Panchayat for considering the application. Ext.P1 is the letter issued by the Panchayat in this regard. According to the petitioner, since the respondent has not provided necessary requirements for starting the super market as well as sufficient car parking facilities, the application for licence was not considered and the same was intimated to the respondent by Ext.P2 communication dated 3.3.2008 and the respondent was directed to close down all its activities within 24 hours.

3. Against Ext.P2, the respondent filed an appeal before the Panchayat Committee. While the said appeal was pending, the respondent filed appeal No.278/2008 before the Tribunal for Local Self Government Institutions. The said appeal was disposed of by the Tribunal, directing the Panchayat to take a decision on the appeal within two months, after giving an opportunity of being heard to the respondent and not to take any coercive steps against the respondent until the expiry of one month from the communication of such decision on the appeal to the respondent.

4. It appears that the decision taken by the Panchayat Committee was under challenge before the Tribunal for Local Self-Government Institutions in Ext.P9 Revision Petition, which was allowed by Ext.P10 order passed by the Tribunal by which the revision petition was allowed and Ext.P7 decision of the Grama Panchayat and order bearing No.C3-125/07 dated 3.3.2008 of the Secretary of the Panchayat were set aside. The Tribunal made it clear that the respondent herein is entitled to deemed licence for the period 2007-08 and 2008-09 and the Panchayat was directed not to interfere with its trade except as provided by law. It is aggrieved by Ext.P10 order passed by the Tribunal for Local Self-Government Institutions the petitioner Grama Panchayat is before this Court in this Writ Petition seeking a writ of certiorari to quash Ext.P10 order.

5. Though this writ petition was admitted on 19.11.2009 no interim order of stay of operation of Ext.P10 was granted.

6. A reading of the writ petition would make it clear that, the Panchayat has challenged Ext.P10 order by which the Tribunal has held that the respondent herein is entitled to deemed licence for the period 2007-08 and 2008-09 for running his super market. If that be so, after 2007-08, 2008-09, the respondent will have to make a fresh application for licence for running the super market. In such circumstances, I find absolutely no reason to interfere with the order passed by the Tribunal at this distance of time.

In the result, this writ petition fails and the same is dismissed. But the contentions raised by the petitioner Grama Panchayat in this Writ Petition are left open.

ANIL K.NARENDRAN, JUDGE

skj