

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 20TH DAY OF MAY 2015/30TH VAISAKHA, 1937

WP(C).No. 1556 of 2012 (T)

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PETITIONER:

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ALEXANDER NEMIS, AGED 40 YEARS  
S/O.NEMEES, PUTHUVAL PURAYIDOM, PARUTHY  
KOZHIKKAL.P.O., PIN-695 513, TRIVANDRUM DISTRICT.

BY ADV. SRI.T.O.XAVIER

RESPONDENTS:

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1. MARY SHAILA  
W/O.ANDREWS, PALLIVILAYAM, PARUTHY  
POZHIYOOR.P.O., PIN-695513.

2. DISTRICT COLLECTOR  
TRIVANDRUM.695 001.

3. VILLAGE OFFICER  
KULATHOOR VILLAGE, P.O.NEYYATTINKARA TALUK  
TRIVANDRUM DISTRICT.695583.

4. KULATHOOR PANCHAYATH  
REP.BY THE SECRETARY, KULATHOOR.P.O., TRIVANDRUM.695583

5. STATE OF KERALA  
REPRESENTED BY CHIEF SECRETARY TO GOVT., SECRETARIAT  
TRIVANDRUM. PIN-695 001.

R2,R3 & 5 BY SRI.V.K.RAFEEL, GOVERNMENT PLEADER  
R1 BY ADV. SRI.L.MOHANAN  
R1 BY ADV. SMT.LIGEY ANTONY  
R4 BY ADV. SRI.V.R.GOPU  
R4 BY ADV. SRI.G.JAYAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON  
20-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

WP(C) .No. 1556 of 2012 (T)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1-A TRUE COPY OF THE PETITION SUBMITTED TO THE 2ND  
RESPONDENT BY THE PARIEST DATED 10.10.2011.

RESPONDENTS' EXHIBITS

EXT.R2(A): TRUE COPY OF THE LIST IS SUBMITTED BY THE PRESIDENT  
OF KULATHOOR GRAMA PANCHAYAT BEFORE THE 2ND RESPONDENT DATED  
26.8.2011.

RKC

TRUE COPY

PS TO JUDGE

**P.V.ASHA, J.**

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W.P(c) No.1556 of 2012-T  
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Dated this the 20<sup>th</sup> day of May, 2015

**JUDGMENT**

The petitioner seeks a direction to the 2<sup>nd</sup> respondent to include his name in the list of beneficiaries of Tsunami Rehabilitation Programme, on the ground that his name was included in the list submitted by Vicar of St.Mary Magdalene's Church.

2. The petitioner submits that his name was originally included in the list of 127 persons eligible for re-habilitation, furnished by the of Priest, as serial no.105. But his name was struck off from the list, when it was given back after scrutiny. This is evident from the list produced along with Ext P1 also. Thereupon, on 07.10.2011, Parish Priest, as per Ext P1 petition, requested the District Collector to restore the name of petitioner. According to the petitioner, it is only on account of the political influence of the 1<sup>st</sup> respondent that, his name was deleted from the list and her name was included.

3. I heard the learned counsel appearing on either side.

4. The 2<sup>nd</sup> respondent has filed a counter affidavit in

which it is stated that the petitioner's name, which was originally included as Sl.No.105 was deleted with an endorsement on the last page that "Sl.No.105 owned residential house". In the affidavit dated 23.03.2012, filed on behalf of 2<sup>nd</sup> respondent, in support of I.A. 5401/2012 to vacate the interim order it is stated as follows:

"3. xxxxxxxxxxx xxxxx xxxxx xxxx xxxxx xxxxx xxxxx  
xxxxxxxx Tsunami Rehabilitation Programme is intended for rehabilitating the deserving landless fishermen. Priority was given to those fishermen resides within a radius 10 to 50 metres from the seashore and priority is fixed based on the proximity from the seashore. On enquiry it was found that the petitioner is residing at residential house bearing No.XII/990(X/270 - old number) of Kulathoor Grama Panchayath situated in Re Survey numbers 314/21 and 26 in Block No.46 of Kulathoor Village having an extent of 96 square metres. The said property and the residential building therein are in the name of the wife of the petitioner Smt.Reena Alexander. The petitioner is residing in the above residential house along with his wife and children. As per the norms, the patta for the new residential plot under Tsunami Rehabilitation Programme is to be given in the joint name of husband and wife. If any of the parties is possessing any residential house, that will be considered as a ground for rejection for the claim for new residential house. In the

present case, the wife of the petitioner is possessing residential house and as such the petitioner is not entitled to be included in the list of beneficiaries. The interim order dated 02.03.2012 is only to be vacated.”

5. The petitioner has not filed any counter affidavit controverting the above statement. No reply affidavit is also filed disputing the averments in the counter affidavit. In these circumstances, I do not find any reason to interfere with the impugned action. Mere inclusion in the list furnished by the Parish Priest or church will not enable him to raise any claim for re-habilitation. The petitioner has not produced any material before this court to substantiate his claim for inclusion of his name in the list of Tsunami Rehabilitation Programme.

Therefore the Writ Petition fails and is accordingly dismissed.

Sd/-  
**(P.V.ASHA, JUDGE)**

rtr/