

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE AG.CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

MONDAY, THE 23RD DAY OF FEBRUARY 2015/4TH PHALGUNA, 1936

WA.No. 63 of 2014 () IN WP(C).14120/2013

AGAINST THE JUDGMENT IN WP(C) 14120/2013 of HIGH COURT OF KERALA
DATED 30-09-2013

APPELLANT(S)/RESPONDENTS 4 AND 6 :-

1. PALAKKAD MUNICIPALITY
REPRESENTED BY ITS SECRETARY, MUNICIPAL OFFICE
PALAKKAD-678001.
2. SRI.VIJAYAN P.
SECRETARY, PALAKKAD MUNICIPALITY
MUNICIPAL SECRETARY'S QUARTERS, NEAR CIVIL STATION
PALAKKAD-678001.

BY ADVS.SRI.P.K.SURESH KUMAR (SR.)
SRI.P.S.APPU
SRI.A.R.NIMOD
SRI.SANIL JOSE
SRI.T.C.SURESH MENON

RESPONDENT(S)/PETITIONER/RESPONDENTS 1, 2, 3, 5 & 7 :-

1. P.AJAYKUMAR
RESIDING AT PALAKKAL HOUSE, THARAVATHU PADI
NEAR SIVAN KOVIL, PIRAYIRI P.O., PALAKKAD-678 019.
2. STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT
LOCAL SELF GOVERNMENT DEPARTMENT
GOVERNMENT OF KERALA, SECRETARIAT, THIRUVANANTHAPURAM-695001.
3. DIRECTOR OF VIGILANCE AND ANTI-CORRUPTION BUREAU
VIGILANCE DIRECTORATE, P.M.G.JUNCTION
THIRUVANANTHAPURAM-695001.
4. DISTRICT COLLECTOR, PALAKKAD DISTRICT, PALAKKAD-678001.
5. CHAIRMAN, PALAKKAD MUNICIPALITY, PALAKKAD-678001.

6. SRI.NARAYANAN, CONSTABLE
OFFICE OF THE VIGILANCE AND ANTI-CORRUPTION BUREAU
PALAKKAD UNIT, PALAKKAD
RESIDING AT PERIMKULAM AGRAHARAM, ALATHOOR
PALAKKAD-678 541.

R1 BY ADV. SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.V.RENJITH KUMAR
SRI.ASWIN.P.JOHN
R2-R4 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 23-02-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

**ASHOK BHUSHAN, Ag. C.J &
A.M. SHAFFIQUE, J.**

W.A. No.63 of 2014

Dated this the 23rd day of February 2015

J U D G M E N T

Ashok Bhushan, Ag.CJ

Heard the learned counsel for the appellants as well as the learned counsel appearing for the respondents.

2. This writ appeal has been filed by the Palakkad Municipality and Secretary of the Municipality aggrieved by part of the judgment dated 30.9.2013 passed in W.P.(C) No.14120 of 2013. The learned Single Judge, by the impugned judgment has issued two directions. The 2nd direction issued by the learned Single Judge was to the following effect :-

"The Secretary to Government, Local Self Government Department is directed to conduct an enquiry into the entire episode, to ascertain the circumstances under which the high handed acts were committed on the petitioner and his property, to fix the liability on the guilty persons and to initiate departmental proceedings against them. The Secretary to Government, Local Self Government Department shall also quantify the loss caused to the petitioner and shall pass necessary orders for the recovery of the said loss."

3. The Municipality aggrieved by the said direction contended that the learned Single Judge ought to have closed the matter and there was no requirement to issue any direction to the Secretary, Local Self Government Department to conduct an enquiry. Although this Court admitted the appeal, no interim order was passed staying the enquiry, rather this Court observed in the order dated 28.2.2014 that the enquiry be conducted as directed by the learned Single Judge and a report be submitted before this Court. The enquiry was conducted by the Secretary, Urban Affairs. A report has been submitted along with a memo dated 20.1.2015. In the report, the Secretary has reported that the action of the Municipality was not with any malafide intention, rather it was carried out in good faith. However, the loss, which was caused to the petitioner has been calculated to the tune of ₹11,600/-, which was directed to be paid.

4. When the appeal was taken today, the learned counsel for the appellants submitted that the Municipality has now accepted the report and shall implement the report. In view of the above submission, the challenge to the 2nd direction of the learned Single Judge has virtually become infructuous since the direction has been carried out.

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5. Learned counsel for the respondents although tried to contend that the report is not in accordance with the direction, we do not intend to enter into any such issue, since the court only directed to conduct an enquiry and submit a report. The Municipality has accepted the report. Hence, the challenge to the judgment has become infructuous.

In the above view of the matter, we close the writ appeal holding that it has become infructuous. The respondents, if aggrieved with the report or the action taken by the Government, it is always open for them to take appropriate action in accordance with law.

Sd/-
ASHOK BHUSHAN
Ag. CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

//TRUE COPY//

P.A. TO JUDGE