

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFIQUE**

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937

WA.No. 935 of 2015 ()

AGAINST THE ORDER IN RP. NO. 118/2015 IN WP(C) NO. 17148/2014 DATED 11-03-2015

APPELLANT/RESPONDENT IN RP.NO.118/2015 IN WP(C).NO.17148/2014 :

**E.JACOB VARGHESE, AGED 63 YEARS
S/O.CHACKO KOCHU, CHACKO, ELANJICKAL,
KARUKAYIL HOUSE, NIRANOM VILLAGE, THIRUVALLA TALUK
PATHANAMTHITTA DIST., NOW RESIDING AT ELANJICKAL HOUSE
PALLOM P.O., KOTTAYAM DIST., PIN -686 007.**

**BY ADVS.SRI.P.A.AZIZ
SRI.I.G.MANOHARAN
SRI.N.N.PANKAJAKSHAN**

RESPONDENTS/RESPONDENTS IN CON. CASE/PETITIONER IN RP :

- 1. THE KERALA WATER AUTHORITY
VELLAYAMBALAM, THIRUVANANTHAPURAM
REPRESENTED BY ITS MANAGING DIRECTOR- 685 033.**
- 2. STATE OF KERALA
REPRESENTED BY THE CHIEF SECRETARY TO GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM – 695001.**
- 3. PULIKEEZHU BLOCK PANCHAYATH
VALANJAVATTOM P.O., THIRUVALLA TALUK,
PATHANAMTHITTA DIST.- 689104,
REPRESENTED BY ITS SECRETARY, BLOCK DEVELOPMENT OFFICE
PULIKEEZHU BLOCK PANCHAYATH, VALANJAVATTOM P.O.,
THIRUVALLA TALUK, PATHANAMTHITTA DIST. - 689104.**
- 4. THE SECRETARY
OFFICE OF THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT
INSTITUTIONS (LSGI), SABHALYAM COMPLEX, UNIVERSITY P.O.,
TRIVANDRUM – 695 034.**

5. THE SECRETARY,
LAW DEPARTMENT, GOVT. SECRETARIATE,
TRIVANDRUM – 695 001.
6. THE FOOD SAFETY OFFICER
CHENGANNOOR CIRCLE, NEAR TALUK OFFICE,
CHENGANNOOR P.O., ALAPPUZHA DIST. - 689121.

R1 BY ADV. SRI.MILLU DANDAPANI, SC
R2, R4 TO R6 BY SR. GOVT. PLEADER SRI. P.I. DAVIS

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 10-06-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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APPENDIX

APPELLANTS' ANNEXURES :

- ANNEXURE A1 : COPY OF ORDER IN RP NO. 944/14 IN WP(C) NO. 17148/2014.
- ANNEXURE A2 ORIGINAL OF THE ORDER DATED 11-3-2015 IN RP NO. 118/2015 IN WP(C) NO. 17148/14.
- ANNEXURE A3 COPY OF THE JUDGMENT DATED 12-10-2012 IN WP(C) NO. 978/12.
- ANNEXURE A4 MEMO DATED 18-9-2012 SUBMITTED BY AMICUS CURIAE IN WP(C) NO. 978/12.
- ANNEXURE A5 COPY OF LETTER NO. A 5-554/14 DATED 27-8-2014 ADDRESSED TO MD.KWA BY SECRETARY, PULIKEEZHU BLOCK PANCHAYATH.
- ANNEXURE A6 COPY OF JUDGMENT DATED 3-7-2014 IN WP(C) NO. 15849/2014.
- ANNEXURE A7(A) COPY OF ORDER OF STAY DATED 7-7-2014 IN WP(C) NO. 17148/14.
- ANNEXURE A7(B) COPY OF ORDER OF STAY DATED 21-7-2014 IN WP(C) NO. 17148/14.
- ANNEXURE A8 COPY OF ORDER IN CONTEMPT CASE(C) NO. 09/2015.
- ANNEXURE A9(A) COPY OF GOVERNMENT CIRCULAR NO. 16/14 (ENVIRONMENT) DATED 12.12.2014 IN MALAYALAM.
- ANNEXURE A9(B) COPY OF ENGLISH TRANSLATION OF SELECTED EXTRACTS OF THE ABOVE CIRCULAR.

RESPONDENT'S ANNEXURES :

//TRUE COPY//

P.S. TO JUDGE

**ASHOK BHUSHAN, CJ
& A.M.SHAFFIQUE, J.**

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W.A.No.935 of 2015

Dated this the 10th day of June 2015

J U D G M E N T

Shaffique, J

The appeal is filed against the order in R.P.No.118/2015 in W.P.C.No.17148/2014. The writ petitioner is the appellant. According to him, the writ petition was already decided as per judgment dated 11/11/2014 allowing the writ petition. Further, the petitioner preferred R.P.No.944/2014 stating that though the prayer in the writ petition was to implement Ext.P5 resolution passed by the 3rd respondent in the light of Ext.P8, the said rider does not find a place in the operative portion of the judgment. The learned Single Judge, by order dated 17/12/2014, allowed the review petition to the limited extent of modifying the operative portion of the judgment to the effect that Ext.P5 resolution of the 3rd respondent shall be implemented in the light of Ext.P8. Thereafter, Kerala Water Authority filed another

review petition as R.P.No.118/2015 inter alia stating that the judgment had been passed without taking into consideration all the factual circumstances especially the judgment of the Division Bench dated 12/10/2012 in W.P.C.No.978/2012. Further, it was pointed out that if the said judgment had been produced, the learned Single Judge could not have passed a final judgment. Therefore, the judgment passed was reviewed and the writ petition was posted for further hearing. The learned counsel for the appellant would submit that the learned Single Judge ought not have passed the earlier judgment in the light of the submission made by Kerala Water Authority.

2. It is apparent that if a decision has been rendered without referring to an earlier judgment with reference to the very same subject matter, it is always open for a writ Court to review the judgment and exercise of the said jurisdiction, cannot be questioned. Under such circumstances, we do not think that the learned Single Judge

committed any error in reviewing the judgment dated 11/03/2015 in W.P.C.No.17148/2014. Since the matter is already posted for hearing, no injustice is done to the appellant, as matters stand now. We do not find any ground to interfere with the order passed by the learned Single Judge. Parties shall be free to appear before the learned Single Judge and seek for an early hearing.

With the above observation, this writ appeal is dismissed.

(sd/-)

(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

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jsr

