

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 16TH DAY OF JULY 2015/25TH ASHADHA, 1937

WA.No. 1523 of 2015 IN WP(C).17158/2014

AGAINST THE JUDGMENT IN WP(C) 17158/2014 DATED 19/06/2015

APPELLANTS/PETITIONERS :

1. RAVEENDRAN, AGED 62 YEARS
S/O. NARAYANAN NAIR, VARAVUKALAYIL VEEDU
THEKKETHU KAVALA, KANJIRAPALLY, KOTTAYAM DISTRICT.
2. RADHAKRISHNAN NAIR, AGED 48 YEARS
S/O. SANKARAN NAIR
ELAMPURAYIDATHIL (VADAKKAYIL) HOUSE
THEKKETHU KAVALA P.O., CHIRAKKADAVU, KANJIRAPALLY
KOTTAYAM DISTRICT.

BY ADV. SRI.GEORGE SEBASTIAN

RESPONDENTS/RESPONDENTS :

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF LOCAL SELF GOVERNMENT, SECRETARIAT
THIRUVANANTHAPURAM-695 001.
2. CHIRAKADAVU GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY
CHIRAKADAVU PONKUNNAM P.O, KOTTAYAM DISTRICT-686 001.
3. ANEESH KUMAR T.J.
THEKKADAYIL HOUSE, CHERUVALLY P.O., MANIMALA
KOTTAYAM DISTRICT-686 001.
4. THE TRAFFIC REGULATORY COMMITTEE
CHIRAKKADAVU GRAMA PANCHAYTH
REPRESENTED BY ITS SECRETARY, CHIRAKKADAVU
PONKUNNAM PO, KOTTAYAM DISTRICT-686 001.

R1 BY SR.GOVERNMENT PLEADER, SRI.P.I. DAVIS

R3 BY SRI.LIJI.J.VADAKEDOM

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 16-07-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. No. 1523 OF 2015

Dated this the 16th day of July, 2015

JUDGMENT

Shaffique, J.

Petitioners in W.P.(C) No. 17158 of 2014 are the appellants who are challenging the judgment dated 19.06.2015. The writ petition is filed challenging Exts.P3 and P8 orders issued by the Government. Ext.P3 is the decision taken by the Panchayat permitting certain type of vehicles to park in an old jeep stand which was remaining defunct for quite some time. Petitioners challenged the said decision by filing a representation before the Government under Section 191 of the Kerala Panchayat Raj Act, 1994 (hereinafter referred to as 'the Act') as Ext.P6. Ext.P6 was disposed of by virtue of Ext.P8 order dated 23.06.2014 by which the Government directed to form Traffic Regulatory Committee in the Panchayat level which was formed as per Government Order dated 24.09.2011, to take into consideration whether there is any problem with reference to the parking of such vehicles in the area and to take a final decision in the matter.

2. Learned Single Judge after hearing the private respondents observed that the Government having only directed the Traffic Regulatory Committee to decide the matter, there is no reason to interfere with the decision taken by the Panchayat or by the Government in that behalf.

3. Learned counsel for the appellants submits that their main concern was with reference to the legality of Ext.P3 decision which has not been gone into by the Government as evident from Ext.P8 decision. It is argued that Ext.P3 resolution was passed without complying with the statutory provisions as contained in the Act and the Rules framed thereunder. According to the learned counsel for the appellants, Ext.P3 decision could have been taken only after complying with the provisions in Kerala Panchayat Raj (Landing Places, Halting Places, Cart Stands and other Vehicle Stands) Rules, 1995.

4. It is contended by the contesting respondents that their vehicles namely, 'Tata Magic Iris' (auto car), which is a four wheeler, are not permitted to park in the auto stand, and they did not have a proper parking place. Accordingly, they

approached the Panchayat by filing a representation. Panchayat directed the petitioners to park their vehicles in the old parking stand for jeep. Presently no jeeps were being parked in the area. Therefore being a convenient place, the Panchayat had given permission to park their vehicles in the area. It is also stated that such parking will not harm anyone as alleged by the petitioners. They have also stated that being an old parking area previous sanction was not required from the Regional Transport Authority as per provisions of the Act, but Panchayat had given permission to park their vehicles.

5. Having regard to the aforesaid factual issues, it is pertinent to note that this Court need not interfere with the challenge made by the petitioners, on account of the fact that the Government has permitted the Traffic Regulatory Committee to look into the factual aspects involved in the matter which Committee of course has jurisdiction to find out whether the present area is disadvantageous to the public at large. If the Panchayat wants to fix the said area as a permanent parking stand for the aforesaid vehicles, definitely they have to comply

with the procedure prescribed. But the fact remains that, according to the contesting respondents, it was an old parking area for jeeps. In the said circumstances and since the learned Single Judge did not find it necessary to exercise its discretion to interfere with Exts.P3 and P8 orders, we do not think that this Court will be justified in upsetting the said judgment by exercising the appellate jurisdiction.

In the result, as no grounds are made out to interfere with the said judgment, the Writ Appeal is dismissed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**

WA No. 1523 of 2015

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