

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

WEDNESDAY, THE 1ST DAY OF JULY 2015/10TH ASHADHA, 1937

WA.No. 970 of 2014 () IN WP(C).30960/2006

AGAINST THE JUDGMENT IN WP(C) 30960/2006 DATED 24-09-2007

APPELLANT(S)/4TH RESPONDENT :-

H.GEETHA,
POOVANATHUM VILAKOM, AZHOOR, PERUMUZHI P.O.
CHIRAYINKEEZHU TALUK, THIRUVANANTHAPURAM.

BY ADV. SRI.M.DINESH

RESPONDENTS/PETITIONER & RESPONDENTS 1 TO 3 :-

1. T.PRASANNA KUMAR,
NIRMALA BHAVAN, POTHENCODE
THIRUVANANTHAPURAM - 695 584.
2. STATE OF KERALA,
REPRESENTED BY THE SECRETARY TO GOVERNMENT, FOOD,
CIVIL SUPPLIES AND CONSUMER AFFAIRS DEAPRTMENT
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.
3. THE DISTRICT COLLECTOR,
COLLECTORATE, THIRUVANANTHAPURAM - 695 001.
4. THE DISTRICT SUPPLY OFFICER,
THIRUVANANTHAPURAM - 695 001.

R1 BY ADV.SRI.GEORGE POONTHOTTAM
R2 to R4 BY SPL.GOVERNMENT PLEADER SMT.GIRIJA GOPAL

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 01-07-
2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jvt

WA.NO.970 OF 2014

APPENDIX

APPELLANT'S EXHIBITS :-

ANNEXURE-A1 :- TRUE COPY OF THE MEDICAL CERTIFICATE DATED 17.7.2013 ISSUED TO THE PETITIONER/APPELLANT BY DR.V.T.JAYAKUMAR, B.Sc., M.B.B.S., F.C.C.P., C.S.I MISSION HOSPITAL, ATTINGAL.

RESPONDENT'S EXHIBITS :- NIL.

//TRUE COPY//

P.A. TO JUDGE

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

W.A. No.970 of 2014

Dated this the 1st day of July 2015

J U D G M E N T

Shaffique, J.

This writ appeal is filed by the appellant challenging the judgment dated 24.9.2007 in W.P.(C) No.30960 of 2006.

2. The writ petition was filed by the first respondent herein challenging Ext.P7 order passed by the Government, by which, the right to conduct AWD No.5 in Thiruvananthapuram Taluk was awarded in favour of the appellant. The facts involved in the writ petition would disclose that pursuant to a notification issued by the District Collector, the petitioner, the 4th respondent and others have submitted their applications. The application of the appellant was rejected on the ground that the application form did not contain requisite documents including solvency certificate. The appellant's application was therefore, not considered. The appellant filed an appeal before the Civil Supplies Commissioner, which came to be rejected, against which, a revision was filed before the Government and the Government, by Ext.P7 order dated 8.11.2006 observed

that since the appellant has produced a solvency certificate showing a very high amount, she should be granted licence to conduct the wholesale business.

3. The learned Single Judge after considering the rival contentions found that, in Ext.P8 advertisement inviting application, it was clearly indicated that solvency certificate upto an amount of ₹6 lakhs should be enclosed along with the application and the 4th respondent did not comply with the same. Hence, the District Collector was justified in not considering the application of the 4th respondent. Accordingly, Ext.P7 was quashed and the writ petition was allowed.

4. Learned counsel for the appellant placed reliance on the judgment of the Division Bench of this Court in **Varkey v. State of Kerala** [1984 KLT 567]. Specific reference is made to paragraph 3 of the judgment, in which, the Division Bench observed that no provision in the relevant Rules had been brought to the notice of the court, that a solvency certificate should be accompanied along with the application. It is therefore, observed that even in the application form, which is not a statutory form, but only a form prescribed by the executive authority, there is no mention that solvency

certificate or the consent certificate is to accompany the application. The only requirement in the application form, is an answer to be given as to whether the applicant was solvent or not. In the said circumstance, the Division Bench held that insisting for solvency certificate was not justified.

5. But the factual situation in the present case is totally different. In Ext.P8 itself it was indicated that the applicants have to produce solvency certificate in original. Under such circumstances, the application submitted by the appellant without solvency certificate should have to be rejected at the threshold, which had been done by the District Collector. The Government have interfered in the matter, without taking note of the fact that the appellant did not comply with the requirements specified in the advertisement and granted licence to the appellant. The Government had merely formed an opinion that since the solvency certificate produced by the appellant is for a very high amount, the AWD is to be awarded in her favour. This, according to us, is totally unjustifiable. We do not see any error in the judgment of the learned Single Judge in quashing the order passed by the Government.

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We do not find any ground to interfere with the judgment of the learned Single Judge. Accordingly, this writ appeal is dismissed.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE

Jvt