

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 3RD DAY OF NOVEMBER 2015/12TH KARTHIKA, 1937

WA.No. 1124 of 2014

AGAINST THE ORDER IN W.P(C).NO.15852 OF 2013, DATED 19.03.2014

APPELLANT(S)/RESPONDENTS :

- 1. STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
DEPARTMENT OF REVENUE AND LEGAL METROLOGY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE CONTROLLER,
DEPARTMENT OF LEGAL METROLOGY, VIKAS BHAVAN, PALAYAM,
THIRUVANANTHAPURAM, PIN- 695 013.**
- 3. THE INSPECTOR OF LEGAL METROLOGY,
LEGAL METROLOGY BHAVAN, KAKKANAD, KOCHI, PIN- 682 030.**

BY SR.GOVERNMENT PLEADER SRI.VIJU ABRAHAM

RESPONDENT(S)/PETITIONER :

**MARS INTERNATIONAL INDIA PRIVATE LIMITED,
HAVING ITS REGISTERED OFFICE AT SUCHETA BHAWAN,
1ST FLOOR, II-1, VISHNU DIGAMBER MARG,
NEW DELHI - 110 002,
REPRESENTED BY ITS AUTHORISED SIGNATORY
MR.SUDEEP DHARIWAL.**

BY ADV. SRI.P.SANJAY

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 03-11-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

Msd.

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.A.No.1124 of 2014

Dated this the 3rd day of November 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard learned counsel for the appellant and the learned counsel appearing for the respondent/writ petitioner.

2. By this writ appeal, order dated 19/03/2014 in I.A.No.2147/2014 in W.P.C.No.15852/2013 has been challenged. The order was passed in the interlocutory application filed by the 1st respondent, who is the writ petitioner. In the writ petition, judgment was passed by this Court on 24/07/2013, by which the following order was passed in paragraph 11 which is extracted below:

“11. It has, however, to be noted that 'five months' are already over, after issuance of Ext.P1 notice and '3 ½ months' are over after issuance of Ext.P5 communication rejecting the explanation/reply given by the petitioner, vide Ext.P4. Even after issuance of Ext.P4 letter dated 13/04/2013, the petitioner took more than two months to approach this

Court by filing this writ petition. In any view of the matter, considering the persuasive submission made by the learned counsel for the petitioner to grant some breathing time to remove the Boards/Advertisements and to have the defects rectified, this Court finds it fit and proper to grant a further period of 'one month' to remove the Advertisement/existing Boards, which are not in conformity with Section 18(2) of the Act. It is however made clear that, this shall be subject to the condition that no further advertisements shall be effected by the petitioner, similar to Ext.P3, unless it is in conformity with Section 18(2) of the 'Act' through any media-print/visual or otherwise."

3. After the said order, a complaint was filed by the State, Ext.P6 dated 02/08/2013 before the Judicial First Class Magistrate Court, Kochi under the Legal Metrology Act, 2009 (hereinafter referred to as 'the Act'). The learned Single Judge, by further order dated 26/08/2013, extended the time for removal of the Boards/Advertisements by the petitioner. Petitioner removed the Board by the time allowed by the Court. An interlocutory application was filed in the writ petition praying for a direction not to prosecute the petitioner for non-removal of the advertisements/boards which have already been

removed/modified by the petitioner in accordance with the order passed by the Court. The interlocutory application has been allowed by the impugned order dated 19/03/2014.

4. The learned counsel for the appellant submits that non-removal of the advertisements/boards was clearly an offence under the Act and the writ petitioner ought to have been allowed to be prosecuted.

5. Learned counsel appearing for the respondent/writ petitioner, however, submits that when the Court has passed an order granting time to the petitioner to remove the advertisements/boards and the Court intended to close the matter which is clear by the order impugned in the writ petition, there was no occasion for prosecuting the writ petitioner any further.

6. We have considered the submission of the parties and perused the records. Paragraph 11 of the judgment dated 24/07/2013, as extracted above, clearly indicates that the Court has noted the facts and decided to grant one month's time to remove the boards/advertisements and to have the defects rectified with regard to the advertisement display. The time was further extended on 26/08/2013. The said order was also with

further conditions. The direction in paragraph 11 of the judgment clearly indicates that the Court permitted the writ petitioner to rectify the defects and to remove the boards/advertisements within time. We are of the view that the learned Single Judge has not committed any error in directing the respondents not to proceed with the prosecution on the writ petitioner since the Court, even before filing the complaint, has already permitted the petitioner to rectify the defect and to remove the boards/advertisements on certain conditions.

No grounds are made out to interfere with the order dated 19/03/2014 in I.A.No.2147/2014. This writ appeal is dismissed.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)
(sd/-)
(A.M.SHAFFIQUE, JUDGE)

True Copy

PA to Judge

jsr/03/11/2015

