

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

TUESDAY, THE 27TH DAY OF OCTOBER 2015/5TH KARTHIKA, 1937

WA.No. 2254 of 2015 () IN WP(C).2954/2015

AGAINST THE JUDGMENT IN WP(C) 2954/2015 DATED 03-08-2015

APPELLANT(S) (PETITIONER IN THE WRIT PETITION) :-

M/S. PULARI PLANTATIONS PRIVATE LIMITED
PERIKINAL BUILDING, HEAD OFFICE, RAJAKKADU P.O
IDUKKI DISTRICT - 685 566
REPRESENTED THROUGH ITS DIRECTOR M.M.LAMBODHARAN.

BY ADVS.SRI.S.VINOD BHAT
SRI.LEGITH T.KOTTAKKAL

RESPONDENT(S) (RESPONDENTS IN THE WRIT PETITION) :-

1. SPICES BOARD, SUGANDHA BHAVAN, NH BY-PASS,
PB NO.2277, PALARIVATTOM P.O, KOCHI - 682 025.
2. THE ASSISTANT DIRECTOR-MARKETING,
SPICES BOARD, SUGANDHA BHAVAN, NH BY-PASS,
PB NO.2277, PALARIVATTOM P.O., KOCHI - 682 025.
3. THE KERALA CARDAMOM PROCESSING AND MARKETING
COMPANY LIMITED, SPICE HOUSE, BUILDING NO. KP 1/174-B
THEKKADY - 685 509.
4. MAS ENTERPRISES LIMITED
X/677, MAS BUILDING, VANDANMEDU - 685 551.
5. SOUTH INDIAN GREEN CARDAMOM COMPANY LIMITED
XBVII/225-228, VECHORATHU BUILDING, VANDANMEDU-685 581.
6. CARDAMOM PLANTER'S ASSOCIATION NO.285,
C.P.A BUILDING, KUMILY ROAD, IDUKKI - 685 619.
7. THE CARDAMOM PLANTERS AND MARKETING
CO-OPERATIVE SOCIETY LTD, "SPICE HOUSE",
BUILDING NO. 1/174-B, THEKKADY - 685 509.
8. UNION OF INDIA REPRESENTED BY SECRETARY
DEPARTMENT OF COMMERCE AND INDUSTRY, NEW DELHI-110 001.

R5 BY ADV. SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW
BY SRI.V.ABRAHAM MARKOS
BY SRI.BECHU KURIAN THOMAS (SR.)
BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
BY SRI.C.HARIKUMAR
BY SRI.MATHEW JOHN (K)

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 27-
10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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

W.A. No.2254 of 2015

Dated this the 27th day of October 2015

J U D G M E N T

Shaffique, J.

This writ appeal is filed by the petitioner in W.P.(C) No.2954 of 2015 challenging the judgment dated 3.8.2015, by which, the said writ petition was dismissed by the learned Single Judge.

2. The writ petition was filed challenging Ext.P9, by which, the application of the petitioner for obtaining E-Auction licence has been rejected by the first respondent authority. The main contention urged by the petitioner was that though he had all the facilities and equipments for conducting E-Auction in terms of the conditions as specified in Ext.P2 Eligibility Criteria, after conducting the inspection, without serving on the petitioner a copy of the inspection report, the application of the petitioner has been rejected as per Ext.P9 letter dated 9.1.2015. In Ext.P9, the respondent authority has indicated certain deficiencies and situations under which the petitioner's application had been rejected.

3. It was inter alia contended by the petitioner that the said findings were absolutely baseless as the petitioner had all the

equipments, machineries and storage facility necessary for conducting E-Auction.

4. Counter affidavit was filed by respondents 1 and 2 supporting the stand taken in Ext.P9. They have also produced inspection report to indicate the deficiencies. They also contended that the petitioner is not entitled for E-Auction licence as he does not satisfy the requirements, as evident from the inspection report.

5. The learned Single Judge, after evaluating the rival contentions, dismissed the writ petition on the ground that it is not possible for this Court to consider the factual dispute raised by the petitioner, especially when there are specific findings that the petitioner had not complied with the requirements in terms of Ext.P2, Eligibility Criteria.

6. Impugning the above judgment, the learned Senior Counsel Sri.R.D.Shenoy appearing on behalf of the appellant submits that the findings of the learned Single Judge is absolutely baseless, in so far as the learned Single Judge did not go into the actual contentions urged on behalf of the petitioner. The learned counsel points out the glaring inconsistencies in the report produced as Ext.R1(b) and the facilities that had been provided by the petitioner/appellant. It is pointed out that though the

petitioner was in possession of various equipments even at the time when the inspection was conducted and necessary godown facilities were made available, without serving a copy of the report, after the filing of the writ petition, a report is seen produced as Ext.R1(b) on 23.12.2014, which, according to the learned counsel, is a subsequently cooked up document.

7. On a specific query raised by us as to whether it is possible for re-considering the application of the petitioner, the learned counsel for respondents 1 and 2 submits that already 12 persons have given auction licence and a system had been made to accommodate such persons and that another person, who was selected is still kept in abeyance and therefore, it may not be possible for considering the matter afresh.

8. Having regard to the nature of contentions urged and the fact that the issue raised by the petitioner is in regard to a finding of fact, which had been reported by the respondents, we do not think that the learned Single Judge had committed any error in dismissing the writ petition.

9. However, having regard to the fact that the learned Senior Counsel submits that all facilities as required in the Eligibility Criteria has been satisfied and the said aspect has not

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been correctly verified at the time of inspection, we are of the view that one more opportunity is to be given to the petitioner/appellant to appraise the respondents that necessary facilities as required in the Eligibility Criteria in terms of Ext.P2 is available. Respondents 1 and 2 shall also re-consider the petitioner's application after conducting an inspection and shall further consider whether the petitioner can be given permission to conduct E-Auction.

Under such circumstances, while confirming the judgment of the learned Single Judge, we direct respondents 1 and 2 to re-consider the application of the petitioner, after conducting necessary inspection and thereafter take a decision in accordance with the procedure prescribed. This shall be done within a period of two months from the date of receipt of a copy of this judgment.

Sd/-
ASHOK BHUSHAN
CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE
JUDGE