

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 15TH DAY OF JANUARY 2015/25TH POUSHA, 1936

WP(C).No. 2630 of 2014 (C)

PETITIONER :

**P.C. JOLLY, AGED 50 YEARS
S/O.CHACKO, MUNDACKAL HOUSE
THIRUMARADI PO., KOOTHATTUKULAM,
ERNAKULAM DISTRICT.**

BY ADV. SRI.T.N.SURESH

RESPONDENT(S) :

- 1. THE DISTRICT COLLECTOR
ERNAKULAM - 682 030.**
- 2. THE DISTRICT PANCHAYAT
ERNAKULAM, REPRESENTED BYT THE SECRETARY
KAKKANAD, ERNAKULAM DISTRICT - 682 030.**
- 3. THE DIRECTOR OF PANCHAYATS
THIRUVANANTHAPURAM - 695001.**
- 4. THE DEPUTY DIRECTOR OF PANCHAYATS
ERNAKULAM - 682 011.**
- 5. THE PAMBAKUDA BLOCK PANCHAYAT
REPRESENTED BY ITS SECRETARY, PAMBAKUDA
ANCHALPETTY PO, ERNAKULAM DISTRICT-682 114**
- 6. THIRUMARADI GRAMA PANCHAYAT
REPRESENTED BY ITS SECRETARY
THIRUMARADI PO., KOOTHATTUKULAM
ERNAKULAM DISTRICT -682 114.**
- 7. THE DIRECTOR
SCHEDULED CASTE AND SCHEDULED TRIBE DEVELOPMENT DEPARTMENT
AYYANKALI NAGAR, THIRUVANANTHAPURAM - 695001.**
- 8. JOSEPH BABU, AGED 56 YEARS
S/O.JOSEPH @ PAILY, CHIRAKUZHIIYIL HOUSE
THIRUMARADI PO, ERNAKULAM DISTRICT - 682 114.**

9. KUNJAPPAN PAINKILI, AGED 53 YEARS
S/O. PAINKILI, MULAMMATAKOTTIL HOUSE, THIRUMARADI PO.,
ERNAKULAM DISTRICT -682 114.
 10. C.P. MURALEEDHARAN NAIR, AGED 66 YEARS
S/O.PADMANABHAN NAIR, MITHILA, THIRUMARADI PO.,
ERNAKULAM DISTRICT -682 114.
 11. ANILKUMAR T.S., AGED 34 YEARS
S/O.SIVARAJAN, THEKKEMANGATTIL HOUSE, THIRUMARADI PO
ERNAKULAM DISTRICT -682 114.
 12. M.T. MADHU,
AGED 30 YEARS, S/O.THEVAN
MANAKKATTU THAZHAM (LEKSHAM VEEDU) KAKKOOR P.O.,
ERNAKULAM -682 114.
 13. ABHILASH T.S., AGED 31 YEARS
S/O.SIVARAJAN, THEKKEMANGATTIL HOUSE, THIRUMARADI PO.,
ERNAKULAM DISTRICT - 682 114.
- R1, R3, R4 & R7 BY GOVT. PLEADER SMT. K.A. SANJEETHA
R6 BY ADV. SRI.MATHAI VARKEY MUTHIRENTHY
R7 BY ADV. GOVERNMENT PLEADER
R8, R9, R10, R11, R12 & R13 BY ADVS. SRI.P.GOPAKUMARAN NAIR
SRI.C.S.DIAS
SRI.K.JOSE KURIAKOSE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 15-01-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

Mn

...3/-

APPENDIX

PETITIONERS' EXHIBITS :

- EXT.P1 - TRUE COPY OF THE SCHEMES EVOLVED BY THE THREE TIER GRAMA PANCHAYATS AND SC/ST FUND.
- EXT.P2 - TRUE COPY OF THE COMPLAINT DATED 31-10-2013 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT WITH COPY TO RESPONDENTS 1 AND 3 TO 7.
- EXT.P3 - TRUE COPY OF THE COMPLAINT DATED 25-10-2013 FILED BY SALIM SREEDHARAN BEFORE THE 2ND RESPONDENT.
- EXT.P4 - TRUE COPY OF THE RESOLUTION DATED 29-11-2013 PASSED BY THE 6TH RESPONDENT.
- EXT.P5 - COPY OF THE DECISION NO. 203/2014 DATED 5/7/2014 OF THE 6TH RESPONDENT PANCHAYAT COMMITTEE.

RESPONDENT(S)' EXHIBITS :

- EXT. R10(a) COPY OF THE MEETING HELD ON 16.1.2014 OF THE 6TH RESPONDENT.
- EXT. R10(b) COPY OF INDEMNITY BOND DATED 19.2.2014 EXECUTED IN FAVOUR OF THE PANCHAYATH.

//TRUE COPY//

P.S. TO JUDGE

Mn

A.M.SHAFIQUE, J

W.P.C.No.2630 of 2014

Dated this the 15th day of January 2015

J U D G M E N T

Petitioner has approached this Court seeking the following reliefs:

“(i) issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents 1 to 5 and 7 to take immediate action on Ext.P2 complaint against the respondents 8 to 13;

(ii) issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents 1 to 7 not to make any further payment to the respondents 8 to 13 in connection with the scheme covered by Exhibit P-1;”

2. The facts involved in the *writ petition* would disclose that certain construction activity was being conducted in connection with the implementation of various schemes evolved under the Three Tier Grama Panchayath and Scheduled Caste/Scheduled Tribe fund. Complaint of

the petitioner is that due to political influence of respondents 8 and 9, respondents 10 to 13 were nominated as conveners of the respective committee and the work has been carried out with an intention to loot public money. It is complained that the work has been done without complying with the prescribed standards, quality etc. A complaint has been preferred on 31/10/2013 as Ext.P2 before the 2nd respondent with copy to respondents 1 and 3 to 7. A further complaint is filed as Ext.P3. Petitioner alleges corruption in the matter relating to work being carried out in Ext.P1 scheme and hence has approached this Court.

3. Counter affidavit has been filed by the 7th respondent inter alia stating that on the basis of Ext.P2 complaint, the matter was enquired by the District Development Officer for Scheduled Caste, Ernakulam and releasing of the amount will be subject to the outcome of such an enquiry.

4. Counter affidavit was filed by the 6th respondent denying the allegations raised against him. It is stated that a vigilance enquiry was ordered in the matter.

5. Counter affidavit is filed by the 10th respondent further indicating that the Vigilance Department has not even registered a case till date against anyone. The Panchayath, in its meeting held on 16/01/2014, decided to release the amount that is legally due to the persons who had done the work. The respondents had already executed an indemnity bond in favour of the Panchayath certifying that they would be responsible for any loss caused to the Panchayath.

6. The learned Special Government Pleader appearing on behalf of the 7th respondent submits that the delay in disbursal of the amount would again affect the work involved in the matter as the work is almost in the final stage. It is further submitted that the work relating to Laksham Veedu SC Colony has already been completed.

Learned counsel appearing for Panchayath submits that unless payment is effected, persons who are carrying out the work will not be in a position to do the final works in question.

7. Having regard to the aforesaid factual situation, it is clear that the petitioner claims to be a social worker who complains of the manner in which the work was being done. Apparently, if any complaint in this regard is brought to the notice of the authorities, they are bound to make necessary enquiry and do the needful. It is stated that a complaint has been given to the Vigilance Department. But, it is further stated that no case has been registered against any person. 7th respondent is the authority to consider whether there is any misutilisation of funds. It is for the said authority to make necessary enquiry in the matter and pass appropriate orders. In the said circumstances, I am of the view that this *writ petition* can be disposed of as follows:

i) 7th respondent shall conduct necessary enquiry into the allegations raised in Ext.P2 complaint and take appropriate steps in the matter.

ii) Payment due to the conveners shall be paid by the Panchayath on the basis of the indemnity bond and after obtaining sufficient security from them. In the event of the Director finding that there is any misappropriation of funds, it is open for the authority to take appropriate action against the persons concerned.

This *writ petition* is disposed of as above.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

