

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

TUESDAY, THE 10TH DAY OF FEBRUARY 2015/21ST MAGHA, 1936

WP(C).No. 3041 of 2015 (E)

PETITIONER:

**KANNUR DEVELOPMENT AND
SOCIAL WELFARE CO-OPERATIVE SOCIETY
(KADSCO) C-2004, EDAKADU, KANNUR,
REPRESENTED BY ITS PRESIDENT O.V.JAYAFAR
AL-FAJAR, KUNDANVAYAL, EDAKADU, KANNUR.**

**BY ADVS.SRI.K.A.HASSAN
SMT.JULIA PRIYA RESHMY**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
PORT AND SHIPPING DEPARTMENT, TRIVANDRUM,
REPRESENTED BY THE GOVERNMENT PLEADER,
HIGH COURT OF KERALA - 682031.**
- 2. THE PORT OFFICER,
PORT AND SHIPPING OFFICE,
AZHEEKAL, KANNUR-679303.**
- 3. THE REGIONAL PORT OFFICER,
REGIONAL PORT OFFICER,
BAYPUR, CALICUT-673001.**

BY GOVERNMENT PLEADER SRI.JOSEPH GEORGE

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 10-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

mbr/

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT P1: THE TRUE COPY OF THE REGISTRATION CERTIFICATE
DATED 13.10.2014.
- EXHIBIT P2: THE TRUE COPY OF THE BYE-LAW OF THE KADSCO.
- EXHIBIT P3: THE TRUE COPY OF THE OPEN TENDER FORM FOR THE
PERIOD 2014-15.
- EXHIBIT P4: THE TRUE COPY OF THE MEMBERSHIP REGISTER FILED BY THE
SOCIETY.
- EXHIBIT P5: THE TRUE COPY OF THE REQUEST FOR RECONSIDERATION
DATED 23.1.15.
- EXHIBIT P6: THE TRUE COPY OF THE MINUTES DATED 25.1.15.
- EXHIBIT P7: THE TRUE COPY OF THE RESOLUTION AUTHORIZING THE
PRESIDENT DATED 27.1.2015.

RESPONDENT(S)' EXHIBITS: - NIL

/TRUE COPY/

P.S. TO JUDGE

mbr/

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 3041 of 2015

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Dated, this the 10th day of February, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

(i) To issue a writ of mandamus directing the respondents 2 and 3 to consider Ext. P5 request for reconsideration and accept Ext. P3 tender form filed by the petitioner society.

(ii) To issue a writ of Mandamus directing the respondents 2 and 3 not to open the financial bid filed by the applicants without giving an opportunity to the petitioner society to take part in the tender either by producing the photocopying or by accepting Ext. P5 request as in the case of two others whose applications were accepted on their request after rejection.

(iii) To pass any other appropriate writ, order or direction which this Hon'ble Court may deem fit and proper on the facts and circumstances of the case.

2. The learned counsel for the petitioner points out that the particulars of the members concerned have already been substantiated before the authorities of the Co-operative Department and that the same has been duly certified by the competent

authority, as evident from Ext. P4. This was produced along with tender before the second respondent. For not producing voluminous registers, the tender submitted by the petitioner was not considered and the petitioner was held as 'not qualified'. This made the petitioner to approach this Court by filing the present writ petition.

3. When the matter came up for consideration on 02.02.2015, it was made clear that finalization of the tender shall be subject to the result of the writ petition.

4. Heard the learned Government Pleader as well.

5. The learned counsel for the petitioner submits that the course pursued by the petitioner was also adopted by some other participants as well and that the document as in the case of Ext.P4 is duly certified by the competent authority of the department, which virtually substantiates the contents of the register and as such it ought to have been taken and considered by the second respondent without any further report. Even if any substantiation was necessary the petitioner ought to have been given an opportunity in this regard. After excluding the petitioner from the zone of consideration, the second respondent has taken a different stand in the case of the tender submitted by some other society,

who has submitted similar certificate as in the form of Ext. P4. The grievance of the petitioner has also been projected by way of Ext. P5, which is still to be acted upon, submits the learned counsel for the petitioner.

6. The learned Government Pleader submits that Ext. P5 will be caused to be considered in the light of Ext. P4 and also considering whether any other similar situated person/society has been given the benefit/advantage.

7. In the said circumstances, the writ petition is disposed of, directing the respondents to consider and pass appropriate orders on Ext. P5, after affording an opportunity of hearing to the petitioner, as expeditiously as possible, at any rate, within one week from the date of production of a copy of the judgment.

The petitioner shall produce a copy of this judgment along with copy of the writ petition before the concerned respondent for further steps.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd