

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 19TH DAY OF FEBRUARY 2015/30TH MAGHA, 1936

WP(C).No. 3115 of 2015 (L)

PETITIONER:

VODAFONE CELLULAR LTD (FORMERLY KNOWN
AS VODAFONE ESSAR CELLULAR LTD.) ,
CIRCLE OFFICE AT ANGEL ARCADE,
SOUTH KALAMASSERY, CUSAT P.O.,
COCHIN - 22 REP. BY ITS DGM (LEGAL)
RAJESH, MELETH VEETIL, AGED 44 YEARS,
S/O.LATE RAGHAVAN MELETH VEETIL.

BY ADV. SRI.P.SATHISAN

RESPONDENTS:

1. STATE OF KERALA
REPRESENTED BY ITS SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695 001.
2. SECRETARY, KOLLAM CORPORATION,
KOLLAM DISTRICT - 691 001.
3. SECRETARY, KOILANDY MUNICIPALITY,
KOILANDY, CALICUT - 673 001.
4. KOLLAM CORPORATION REP. BY
SECRETARY, KOLLAM DISTRICT - 691 001.
5. KOILANDY MUNICIPALITY
REPRESENTED BY ITS SECRETARY,
KOZHIKODE DISTRICT - 673 001.

R1 BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA
R2 & R4 BY ADV. SRI.M.K.CHANDRA MOHAN DAS

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 19-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX IN WP(C).No. 3115 of 2015 (L)

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE NOTICE DATED 15/01/2015 ISSUED BY THE 2ND RESPONDENT.

EXT.P1(a): TRUE COPY OF THE NOTICE DATED 31/12/2014 ISSUED BY THE 3RD RESPONDENT.

EXT.P2: REPLY FILED BY PETITIONER BEFORE 2ND RESPONDENT.

EXT.P3: REPLY FILED BY PETITIONER BEFORE 3RD RESPONDENT.

EXT.P4: COPY OF APPEAL SUBMITTED BEFORE 2ND REPONDENT WITH POSTAL RECEIPT.

EXT.P4(a): COPY OF APPEAL SUBMITTED BEFORE 3RD RESPONDENT WITH POSTAL RECEIPT.

EXT.P5: COPY OF INTERIM ORDER IN WPC. 34516/2011.

EXT.P5(a): COPY OF INTERIM ORDER IN WPC 26843/2010.

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.3115 OF 2015 l

Dated this the 19th day of February, 2015

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondents 2 and 4, apart from perusing the record. Since the issue lies in a narrow compass, this Court proposes to dispose of the writ petition at the admission stage itself.

2. Briefly stated, the petitioner, a cellular service provider, filed the writ petition assailing Exhibits P1 and P1 (a) demand notices issued by respondents 2 and 3 respectively. The singular contention of the petitioner is that since no sale activity takes place in the shops established by the company within the jurisdiction of respondents 2 and 3, they cannot insist on the petitioner obtaining any trade licence without a specific notification under Section 447 of the Kerala Municipality Act

concerning the telecoms services.

3. The learned Standing Counsel for respondents 2 and 4, on his part, has contended that the petitioner has already filed Exhibits P4 and P4(a) statutory appeals respectively before respondents 2 and 3. According to him, since a quasi-judicial authority has been seized of the issue, it may not be appropriate for this Court to adjudicate the issue on merits.

4. I find force in the submission of the learned Standing Counsel for respondents 2 and 4. It is open for the petitioner company to raise all its objections before the appellate authorities and invite orders on merits. Needless to observe, if the petitioner has an apprehension that in the meanwhile the respondent Corporations are going to take any coercive steps, I do not think the appellate authorities are powerless in issuing, if they choose to, suitable directions in that regard.

In the facts and circumstances, having regard to the respective submissions of the learned counsel for the petitioner and the learned Standing Counsel, this Court, without adverting to the merits of the matter, dismisses the writ petition as being premature in the face of the fact that statutory appeals are pending in the manner indicated above. It is, however, made clear that dismissal of the writ petition is without prejudice to the rights and contentions of the petitioner before the appellate fora which are to consider the appeals strictly in accordance with law.

Dama Seshadri Naidu, Judge

tkv