

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 1ST DAY OF OCTOBER 2015/9TH ASWINA, 1937

WP(C).No. 5163 of 2015 (U)

PETITIONER(S):

**EDAPPAL HOSPITALS PVT. LTD.,
REP. BY THE MANAGING DIRECTOR, MRS.CHITHRA GOPINATH,
EDAPPAL P.O., MALAPPURAM-678 576.**

BY ADV. SRI.SHEJI P.ABRAHAM

RESPONDENT(S):

- 1. STATE OF KERALA,
REP. BY THE SECRETARY,
HEALTH AND FAMILY WELFARE (F) DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**
- 2. DRUGS CONTROLLER,
OFFICE OF THE DRUGS CONTROLLER,
THIRUVANANTHAPURAM-695 001.**
- 3. THE REGIONAL DRUGS INSPECTOR,
OFFICE OF THE DRUGS CONTROLLER,
KOZHIKODE DISTRICT-693 001.**

BY GOVERNMENT PLEADER SRI.MANOJ P. KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
01-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

EXT P1 : TRUE COPY OF THE LICENCE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT P2 : TRUE COPY OF THE APPLICATION DATED 06-06-2002 WITH NECESSARY DOCUMENTS SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

EXT P3 : TRUE COPY OF THE REMAINDER SEND BY THE PETITIONER TO THE 3RD RESPONDENT.

EXT P4 : TRUE COPY OF THE LETTER DATED 17-07-2014 FROM THE OFFICE OF THE 2ND RESPONDENT TO THE PETITIONER.

EXT P5 : TRUE COPY OF THE APPEAL WITH SKETCH PLAN SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT ON 04-08-2014.

EXT P6 : TRUE COPY OF THE RENEWED LICENCE WITH COVERING LETTER ISSUED FROM THE OFFICE OF THE 2ND RESPONDENT.

EXT P7 : TRUE COPY OF THE SHOW CAUSE NOTICE DTD. 22-08-2014 FROM THE OFFICE OF THE 2ND RESPONDENT.

EXT P7(a) : TRUE COPY OF THE REPLY DTD. 03-10-2014 SUBMITTED BY THE PETITIONER.

EXT P8 : TRUE COPY OF THE ORDER DTD. 20-01-2015 PASSED BY THE FIRST RESPONDENT.

EXT. P9 : TRUE COPY OF THE REQUEST SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

RESPONDENT(S)' EXHIBITS:

EXT.R2(a): COPY OF THE INSPECTION REPORT DTD.3.6.2014 OF DEPUTY DRUGS CONTROLLER CDSCO, CHENNAI.

PETITIONER(S)' ANNEXURES:

ANNEXURE I: TRUE PHOTOCOPY OF THE INSPECTION REPORT DTD.3.6.2014.

//TRUE COPY//

P.S.TO JUDGE

A.MUHAMED MUSTAQUE, J.

WP.(C).No.5163 of 2015

Dated this the 1st day of October, 2015

J U D G M E N T

The petitioner has approached this Court challenging Ext.P8 order issued by the 1st respondent. By Ext.P8 order, the petitioner was ordered to stop the activities of the blood bank from the present premises stating that the blood bank is conducted in the 1st floor of the hospital building having a total area of 77.99 sq.m. The inspection also pointed out certain irregularities.

2. A statement has been filed on behalf of the 2nd respondent. It is stated in the above statement that the blood bank is situated in a building having a total area of 77.99 Sq.Mtrs. Instead of the required area of 100 Sq.Mtrs.

3. Under the Drugs and Cosmetics Rules, 1945 a blood shall have an 100 sq.meter for operation and an additional area of 50 meters for preparation of blood

compounding, which also consists of room with certain parameters. In order to resolve the dispute regarding the plinth area, an Advocate Commissioner has been appointed. The Commission Report would indicate that plinth area of the blood bank is more than 100 sq.meters.

4. This Court is of the view of that main reason for issuing impugned order is that the plinth area is less than requisite area, as required under the provisions of the Drugs and Cosmetics Act, 1940. Therefore, in the light of the report of the Advocate Commissioner, the impugned order is set aside. The 2nd respondent shall reconsider the matter after adverting to Commission report within a period of two months from the date of receipt of a copy of this judgment. Till a decision is taken as above, the interim order passed by this Court will continue. If any defect exists, the petitioner shall be given an opportunity to cure the deficiency. The original

licence shall be returned to the petitioner for the purpose of renewal of licence.

The writ petition is disposed of as above.

Sd/

**A.MUHAMED MUSTAQUE
JUDGE**

jm/