

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 26TH DAY OF FEBRUARY 2015/7TH PHALGUNA, 1936

WP(C).No. 6052 of 2015 (F)

PETITIONER:

THE PRIVATE BUS OPERATORS ASSOCIATION,
ADIMALY, REPRESENTED BY ITS SECRETARY,
THOMAS AUGUSTINE.

BY ADV. SRI.P.SANTHOSH KUMAR (TR)

RESPONDENTS:

1. ADIMALY GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, ADIMALY-685 561.
2. ALL KERALA BUS OPERATORS FORUM ADIMALY UNIT,
REPRESENTED BY ITS SECRETARY SOMAN K.F.

R BY SRI.LATHEESH SEBASTIAN, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
26-02-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

WP(C).No. 6052 of 2015 (F)

: 2 :

APPENDIX

PETITIONER'S EXHIBITS :

P1 : COPY OF THE MINUTES OF THE ASSOCIATION MEETING HELD ON 13.6.2012.

P1(A): COPY OF THE ENGLISH TRANSLATION OF MALAYALAM EXT.P1.

P2 : COPY OF THE MINUTES OF THE MEETINTG DTD.13.8.2014.

P2(a): COPY OF THE ENGLISH TRANSLATION OF MALAYALAM EXT.P2.

P3 : COPY OF THE JUDGMENT DTD.26.11.2014 IN WPC NO.31619/2014.

P4 : COPY OF THE ORDER PASSED BY THE 1ST RESPONDENT DTD.17.12.2014
WITHIN NO.A2-12289/2014.

P4(a): COPY OF THE ENGLISH TRANSLATION OF MALAYALAM EXT.P4.

RESPONDENTS' EXHIBITS : NIL

/True Copy/

P.A to Judge.

DAMA SESHADRI NAIDU, J.

W.P. (C) No. 6052 of 2015

Dated this the 26th day of February, 2015.

JUDGMENT

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent Grama Panchayath, 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 association, comprising private bus operators, obtained from the respondent Grama Panchayat through a public auction the right to collect the bus stand fee. As part of the amenities being provided to the commuters based on the arrangements made by the respondent Grama Panchayath, the petitioner association has also been announcing the arrival and departure of the buses for the benefit of the commuters.

3. As can be seen from the record, with periodic enhancement of the bus stand fee from ₹ 19 in 2012 to ₹ 30 in 2014–2015, all the private bus operators are said to have been paying the amounts to the petitioner association for the use of bus stand. Recently, certain bus operators forming themselves into another association,

i.e., the second respondent, have refused to pay the enhanced fee of ₹ 30, but informed that they will pay only ₹ 10. Concluding that it is against the initial contract between the petitioner association and the bus operators, the petitioner association discontinued the facility of announcement of arrival and departure of buses, insofar as the buses of those break away operators are concerned.

4. It is further evident from the record that subsequent to certain litigation, eventually the first respondent Grama Panchayath issued Ext.P4 order directing the petitioner to continue with its service of announcement concerning all the buses without any discrimination for the benefit of the commuters. Assailing Ext.P4, the petitioner has filed the present writ petition.

5. I am of the prima facie opinion that this Court cannot be made a forum to resolve a private dispute inter se, between the petitioner association and the second respondent. At any rate, the learned counsel for the petitioner has submitted that Ext.P4 order passed by the Secretary of the Grama Panchayat is appealable before the committee of the Grama Panchayath, as per the provisions of the Kerala Panchayath Raj (Landing Places, Halting Places, Cart Stands and

other Vehicle Stands) Rules, 1995 .

Having regard to the submission of the learned counsel for the petitioner, this Court, without adverting to the merits of the matter, closes the writ petition, leaving it open for the petitioner to take appropriate statutory measures, if it is aggrieved by Ext.P4 order passed by the Secretary of the Grama Panchayath. It is made clear that refusal of this Court to entertain this writ petition is not to the prejudice of the rights and contentions of the petitioner association, which can raise all its pleas before the appropriate statutory forum for the redressal of its grievance, if any.

sd/- DAMA SESHADRI NAIDU, JUDGE.

