IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

WP(C).No. 13325 of 2007 (J)

PETITIONER(S):

N.K.YOOSUF, S/O.HAMZA,
AGED 32 YEARS, KUNJALIPARAMBU, KALLAMTHODU
P.O.REC NIT, KOZHIKODE.

BY ADV. SMT.K.V.RESHMI.

RESPONDENT(S):

1. **THE STATE OF KERALA,**
   REP. BY THE SECRETARY, LOCAL SELF GOVERNMENT,
   SECRETARIAT,
   THIRUVANANTHAPURAM.

2. **CHATHAMANGALAM GRAMA PANCHAYATH,**
   REP. BY ITS SECRETARY,
   P.O.CHATHAMANGALAM, KOZHIKODE.

3. **THE DEPUTY DIRECTOR OF PANCHAYAT,**
   PANCHAYAT DEPARTMENT, CIVIL STATION,
   KOZHIKODE.

4. **THE DIRECTOR OF PANCHAYATS,**
   SECRETARIAT, THIRUVANANTHAPURAM.

R2 BY ADV. SRI.P.V.KUNHIKRISHNAN
BY GOVERNMENT PLEADER SRI.SHYSON P. MANGUZHA.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26-05-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT.P1: TRUE COPY OF THE DISABILITY CERTIFICATE ISSUED BY THE MEDICAL BOARD, GOVERNMENT GENERAL HOSPITAL, KOZHIKODE DATED 30/03/92.

EXT.P2: TRUE COPY OF THE CERTIFICATE DATED 15/09/06 ISSUED BY THE MEMBER OF THE 4TH WARD UNDER THE 2ND RESPONDENT.

EXT.P3: TRUE COPY OF THEDOCUMENT DATED 23/09/06 RECEIVED FROM THE OFFICE OF THE 2ND RESPONDENT.

EXT.P4: TRUE COPY OF THE REPRESENTATIONS DATED 10/12/06 WITH ACKNOWLEDGMENT CARDS SUBMITTED BEFORE THE 1ST, 3RD AS WELL AS 4TH RESPONDENT.

EXT.P5: TRUE COPY OF THE LETTER DATED 29/01/07 SUBMITTED BEFORE THE 3RD RESPONDENT WITH A/D CARDS.

EXT.P6: TRUE COPY OF THEREJECTION ORDER DATED 15/03/07 ISSUED BY THE 2ND RESPONDENT.

EXT.P7: TRUE COPY OF THE RECEIPT ISSUED TO THE PETITIONER DATED 18/11/06 TOWARDS THE FEE REMITTED FOR CONSTRUCTION PERMTI.

EXT.P8: TRUE COPY OF THE INVOICE DATED 30/09/94 ISSUED TO THE PETITIONER BY THE KSE BOARD.

RESPONDENT(S)' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J

WPC No.13325 of 2007

Dated this the 26th day of May, 2015

JUDGMENT

Challenging Ext.P6 order rejecting the petitioner's application for financial assistance by the second respondent, the petitioner has come up before this Court.

2. The petitioner is a physically handicapped person having a disability of above 40% and is residing at the 4th ward of the 2nd respondent Grama Panchayat. The petitioner made an application before the 2nd respondent for financial assistance to construct a house from the funds constituted to help to physically disabled persons. According to him, a member of the petitioner's ward conducted an enquiry and issued a certificate to the effect that the petitioner does not have a proper house to reside. The second respondent forwarded the same along with Ext.P2 certificate to the V.E.O.'s office for further action. According to him, since he was under the belief that he would get an amount of ₹35,000/- from the panchayat, he

borrowed ₹25,000/- from his well wishers as well as his neighbours and also ₹16,000/- by pledging gold ornaments belonging to his neighbours and constructed a small structure which is still incomplete. His application was rejected by an order dated 15.3.2007 issued by the second respondent for the reason that he had a completely constructed and electrified house at the time when the 2nd respondent visited the site. It is with this background, the petitioner has come up before this Court.

3. I have heard the learned counsel for the petitioner and the learned Government Pleader.

4. It appears from record that no counter has been filed.

5. As the specific case put forward by the petitioner is that the construction already made by the petitioner which was taken note of by the Village Officer for rejecting his claim for the financial assistance was utilising the money which he had borrowed from other sources including his relatives and friends. Therefore, merely because of the fact that such a construction has

been made by the petitioner, the petitioner's claim cannot be rejected. Therefore, this Court is of the view that the matter requires a re-look by the authorities concerned.

In the result, this writ petition is allowed. The second respondent is directed to reconsider the claim of the Panchayat taking special note of the fact that the construction was made by the petitioner utilising borrowed sums. It shall be open to the petitioner to satisfy the Panchayat this particular aspect and formal orders shall be passed by the respondent Panchayat without any further delay in the matter.

sd/- A.V.RAMAKRISHNA PILLAI
JUDGE

css/ true copy

P.S.TO JUDGE