

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

THURSDAY, THE 5TH DAY OF MARCH 2015/14TH PHALGUNA, 1936

WP(C).No. 6991 of 2015 (Y)

PETITIONER(S) :

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1. ANAND TRADING COMPANY,
36/6046 2ND FLOOR, PANAMPILLY NAGAR, COCHIN - 682 036,
REPRESENTED BY ITS POWER OF ATTORNEY
HOLDER R. JAYACHANDRA PRABHU,
RESIDING AT 12/230, VADAKKEKOOTTUPARAMBU,
KAIPATTUR P.O., ERNAKULAM - 682 313.
 2. PRAVEEN GUPTA,
PROPRIETOR, VISHAL EXPORT, VISHAL SQUARE BUILDING,
XII/360-E, MANTHRA ROAD, KOOVAPPADAM,
KOCHI - 682 002.

BY ADVS.SRI.S.P.ARAVINDAKSHAN PILLAY
SMT.N.SANTHA
SRI.K.A.BALAN
SRI.V.VARGHESE
SRI.PETER JOSE CHRISTO
SRI.S.A.ANAND
SMT.L.ANNAPOORNA
SRI.SAJU JOHN

RESPONDENT(S) :

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1. UNION OF INDIA,
REPRESENTED BY THE SECRETARY,
MINISTRY OF COMMERCE AND INDUSTRY,
CENTRAL SECRETARIAT, NEW DELHI -110 001.
 2. THE RUBBER,
BOARD, POST BOX NO. 1122, SUB JAIL ROAD,
KOTTAYAM - 686 002, REPRESENTED BY ITS SECRETARY.
 3. CHAIRMAN,
THE RUBBER BORAD, POST BOX NO. 1122, SUB JAIL ROAD
KOTTAYAM - 686 002.

4. DIRECTOR,
LICENSING AND EXCISE DUTY, THE RUBBERBOARD,
POST BOX NO. 1122, SUB JAIL ROAD, KOTTAYAM - 686 002.
5. DEPUTY DIRECTOR (LICENSING),
THE RUBBER BOARD, LICENSING DIVISION,
WILLINGDON ISLAND, KOCHI - 682 003.

BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 05-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXHIBIT-P1- TRUE COPY OF THE POWER OF ATTORNEY.
- EXHIBIT-P2- TRUE COPY OF THE PROCEEDINGS NO. 1/2015 DATED
01/01/2015 OF THE 3RD RESPONDENT.
- EXHIBIT-P3- TRUE COPY OF THE MEMORANDUM NO. DIR (L&ED)/GENL/2015
DATED 05/01/2015 OF THE 4TH RESPONDENT.
- EXHIBIT-P4- TRUE COPY OF THE OFFICE NOTE DATED 06/01/2015 BEFORE
THE 4TH RESPONDENT.
- EXHIBIT-P5- TRUE COPY OF THE E-MAIL COMMUNICATION SENT BY THE 4TH
RESPONDENT TO THE 5TH RESPONDENT.
- EXHIBIT-P6- TRUE COPY OF THE AUDIT ENQUIRIES 1 TO 39 DATED
29/09/2014, 07/10/2014, 14/10/2014, 20/10/2014,
28/10/2014, 31/10/2014, 05/11/2014, 07/11/2014 AND
10/11/2014

RESPONDENT(S) ' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

P.R. RAMACHANDRA MENON, J.

W.P(C). No. 6991 of 2015

Dated this the 5th day of March, 2015

J U D G M E N T

The petitioners have approached this Court seeking to resist the shifting of the Licensing Division of the Rubber Board to Kottayam, which in fact is working at Kochi for the time being. The 1st petitioner is a Company incorporated under the relevant provisions of the Company's Act and the 2nd petitioner is the Proprietor of an export organisation. The business location of the petitioners is situated in Ernakulam and they are having close interaction with the respondent Board in connection with the trade in rubber. It is stated that, the petitioners have obtained necessary licence issued from the Rubber Board in terms of Section 14 of the Rubber Act, 1947. The Licensing Division of the Board is stated as established and located at Kochi in the year 1979 and all the dealers across the country are stated as having interaction with the office at Kochi, which is found as the most convenient place by virtue of various infrastructures available and proximity to the other concerned offices and trade establishments. The licensing Division is stated as functioning in

the own building of the respondent Board. However, due to flimsy reasons, the licensing Division is intended to be taken to the head office at Kottayam and proceedings have been issued as per Exts.P2, P3 and P5, which are sought to be interfered in this writ petition.

2. Heard the learned counsel for the petitioners as well as the learned standing counsel appearing for the respondents 2 to 5.

3. The learned counsel for the petitioners points out that, the so called reasons stated in the impugned orders/proceedings are not at all correct or sustainable and that the facts and figures with regard to the operation in no way do tally with the figures actually reflected from the records. It is also pointed out that, the operational expense which is incurred at Kochi is comparatively much less than the expenses which are being acquired by the respondent Board in respect of the other centres. The shifting of the Licensing Division to the Head Office at Kottayam will cause irreparable loss and hardships to the traders and the petitioners in particular. The proposed move is nothing but an arbitrary exercise and hence the same is sought to be intercepted.

4. The learned standing counsel appearing for the respondent Board submits that, there is absolutely no rationale on the part of the petitioners for having approached this Court by filing the writ petition. The shifting of the office is purely within the prerogative of the Management and it has been ordered, taking note of various facts and figures and the operational cost. The building which is presently occupied in the Willington Island is incurring huge expenses by way of the levy / licencing fee payable to the Cochin Port Trust and such other establishments / organisations. The respondent Board is having own building where the head office situated at Kottayam and the distance between Ernakulam and Kottayam is commutable within one or one and a half hours. No prejudice or hardship will be caused to the traders in any manner and appropriate arrangements are being made to distribute and deploy the staff to set up the unit at Kottayam.

5. The particulars of the Licensing Division are discernible from Ext.P2, which reads as follows:

“Licensing and Excise Duty Department consists of three Divisions viz. Excise Duty, Revenue Intelligence and Licensing. Excise Duty Division and Revenue

Intelligence Division are functioning in the Head Office building under the direct supervision of Director (L&ED). There is no rationale to keep the Licensing Division in Kochi. Also the Licensing Division located in Willington Island, Koch is incurring huge amount by way of rental for internet leased line to establish connectivity with HO and Licensing Division, rent to Cochin Port Trust, TA/DA, higher HRA, CCA etc to officials. Moreover the work of these three Divisions is inter-related and coordination between these three Divisions is required frequently. In order to rationalize operational expenses and for close monitoring of the entire activities, it is decided to shift the Licensing Division from Cochin Port Trust to Board's own building at Head Office, Kottayam."

6. During the course of hearing, it is also brought to the notice of this Court that, the employees of the Rubber Board had approached this Court earlier by filing WP(C) No.1078/15, challenging the shifting of the office, referring to the adverse circumstances likely to be resulted because of their possible deployment to Kottayam, that too during the middle of the academic year. An interim stay was granted by this Court and the respondent Board took up the matter by way of appeal ie; Writ Appeal No.371/2015, which is stated as disposed of, on 05.03.2015 (today), whereby the shifting has been ordered to be

kept in abeyance till 31.03.2014 *ie*, till the end of the current academic year.

7. After hearing both the sides, this Court finds that, the shifting of the office in so far as the rights and interests of the petitioners herein are concerned, is purely within the prerogative of the respondent Board and the petitioners who are the traders cannot dictate terms to the Rubber Board with regard to the manner, mode and location of functioning. Absolutely no vested right of the petitioners is adversely affected, much less any fundamental right.

In the said circumstances, this Court finds that the writ petition devoid of any merit and none of the grounds raised in support of the same, could be held as tenable. Interference is declined and the writ petition is dismissed. This however will be subject to the orders already passed by the Division Bench in Writ Appeal No.371/2015 and as such, the de-facto shifting can be implemented only after 31.03.2015.

Sd/-

P.R. RAMACHANDRA MENON, JUDGE.