

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

FRIDAY, THE 6TH DAY OF MARCH 2015/15TH PHALGUNA, 1936

WP(C).No. 7162 of 2015 (U)  
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PETITIONER:

BAIJU.S.S., PROPRIETOR,  
TRIDENT ADVERTISING,  
DOOR NO.33/1840, SHOBHA  
ROAD, VENNALA P.O.,  
KOCHI.

BY ADVS.SRI.BIJU BALAKRISHNAN  
SMT.V.S.RAKHEE  
SMT.PRINCY XAVIER

RESPONDENTS:

1. CORPORATION OF COCHIN,  
COCHIN CORPORATION OFFICE,  
ERNAKULAM PIN 682 011  
REP. BY ITS SECRETARY.
2. THE HEALTH OFFICER,  
CORPORATION OF COCHIN,  
COCHIN CORPORATION OFFICE,  
ERNAKULAM PIN 682 011.
3. CORPORATION COUNCIL  
(APPELLATE AUTHORITY),  
CORPORATION OF COCHIN,  
COCHIN CORPORATION OFFICE,  
ERNAKULAM PIN 682 011.
4. ASOKAN, 'XANCUS', SHOBHA ROAD,  
VENNALA P.O., KOCHI-682 028.

R1 TO R3 BY SRI.P.K.SOYUZ

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
06-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**APPENDIX IN WP(C).No. 7162 of 2015 (U)**

PETITIONER'S EXHIBITS:

EXHIBIT P1 PHOTOSTAT COPY OF THE LICENSE CERTIFICATE NO.1699 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER

EXHIBIT P1(a) TRUE ENGLISH TRANSLATION OF EXT.P1

EXHIBIT P2 PHOTOSTAT COPY OF THE RECEIPT DATED 25-02-2012 ISSUED BY THE 1ST RESPONDENT FOR RENEWAL OF LICENSE OF THE PETITIONER

EXHIBIT P3 PHOTOSTAT COPY OF THE LEASE DEED DATED 01-09-2010

EXHIBIT P3(a) TRUE ENGLISH TRANSLATION OF EXT.P3

EXHIBIT P4 PHOTOSTAT COPY OF THE MEMO NO.MOH13/31393/12, DATED 31-01-2013 OF THE 2ND RESPONDENT

EXHIBIT P4(a) TRUE ENGLISH TRANSLATION OF EXT.P4

EXHIBIT P5 PHOTOSTAT COPY OF THE REPLY DATED 20-02-2013 OF THE PETITIONER

EXHIBIT P6 PHOTOSTAT COPY OF THE POSTAL RECEIPT

EXHIBIT P7 PHOTOSTAT COPY OF THE INTIMATION NO.MOH13/31393/12, DATED 12-03-2013 OF THE 2ND RESPONDENT

EXHIBIT P7(a) TRUE ENGLISH TRANSLATION OF EXT.P7.

EXHIBIT P8 PHOTOSTAT COPY OF THE JUDGMENT DATED 26-03-2013 IN WP (C) NO.8523 OF 2013

EXHIBIT P9 OBJECTION DATED 08-04-2013 FILED BEFORE THE 2ND RESPONDENT CORPORATION

EXHIBIT P10 PHOTOSTAT COPY OF THE ORDER NO MOH13/31393/12 DATED 21-01-2015 ISSUED BY THE 1ST RESPONDENT

EXHIBIT P10(a) TRUE ENGLISH TRANSLATION OF EXT.P10

EXHIBIT P11 PHOTOSTAT COPY OF THE APPEAL FILED UNDER SECTION 509 OF THE KERALA MUNICIPALITY ACT

EXHIBIT P12 PHOTOSTAT COPY OF THE PETITION FOR STAY FILED UNDER SECTION 509(3) OF THE KERALA MUNICIPALITY ACT

EXHIBIT P13 PHOTOSTAT COPY OF THE RECEIPT DATED 04-03-2015 ISSUED BY THE OFFICE OF THE 3RD RESPONDENT

EXHIBIT P13(a) TRUE ENGLISH TRANSLATION OF THE EXT.P13

RESPONDENT'S EXHIBITS: NIL.

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

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W.P.(C)No.7162 of 2015 U  
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Dated this the 6<sup>th</sup> day of March, 2015

### **JUDGMENT**

Heard the learned counsel for the petitioner and the learned Standing Counsel for respondents 1 to 3, 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 proprietor of an advertising agency, is aggrieved by Exhibit P10 order of closure issued by the first respondent Corporation. In fact, assailing Exhibit P10, the petitioner is said to have filed Exhibit P11 statutory appeal along with Exhibit P12 stay petition on 03.03.2015.

3. Since the time granted in Exhibit P10 order for closure of the business comes to an end by this day, the

petitioner has approached this Court ventilating his grievance that the appellate authority, the Council of the respondent Corporation, has not considered his stay petition one way or another.

4. The learned counsel for the petitioner has strenuously contended that unless Exhibit P10 is stayed, the very statutory appeal will become an exercise in futility.

5. I find force in the contention of the learned counsel for the petitioner. Once a statutory appeal has been filed, especially in the face of a specific time frame in the impugned order, the appellate authority ought to have considered the stay petition on merits and passed orders as it deemed proper, leaving it open for the petitioner to take further remedial measures, if aggrieved. If the stay petition remains unattended to, the very statutory appeal may become infructuous.

6. This Court is averse to arrogating to itself the powers which have been assigned to a statutory authority, more particularly, a quasi-judicial authority. Yet to subserve the cause of justice, it is essential to issue an interim direction only to preserve the cause in the lis until it is actually determined.

In the facts and circumstances, the writ petition stands disposed of with a direction to the third respondent to consider petitioner's Exhibit P12 stay petition as expeditiously as possible, at any rate, within a period of two weeks from the date of receipt of a copy of this judgment. It is thus made clear that until the disposal of Exhibit P12 by the third respondent, Exhibit P10 stands suspended.

Dama Seshadri Naidu, Judge

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