

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

FRIDAY, THE 13TH DAY OF MARCH 2015/22ND PHALGUNA, 1936

WP(C).No. 7898 of 2015 (J)

PETITIONER :

**JAYAPRAKASAN K. AGED 48 YEARS,
S/O.KUNJIRAMAN, RESIDING AT KURIYATHAZHA HOUSE,
KEEZHAL (PO), VATAKARA, KOZHIKODE 673 104 SECRETARY
OLAVANNA GRAMA PANCHAYATH, OLAVANNA
KOZHIKODE DISTRICT**

**BY ADVS.SRI.R.SUDHISH
SMT.M.MANJU
SMT.B.PREETHA**

RESPONDENTS :

- 1. KERALA STATE INFORMATION COMMISSION,
REPRESENTED BY SECRETARY, PUNNAN ROAD,
THIRUVANANTHAPURAM 695 001**
- 2. THE APPELLATE AUTHORITY(RIGHT TO INFORMATION ACT,
REPRESENTED BY THE DEPUTY DIRECTOR OF PANCHAYATHS,
CIVIL STATION,KOZHIKODE 673 020**

BY GOVERNMENT PLEADER SRI. K.C. VINCENT

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13-03-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: COPY OF THE ORDER DATED 17-12-2012 OF DIRECTOR OF PANCHAYATHS.
- EXHIBIT P2: COPY OF THE REPORT SUBMITTED BY THE PETITIONER BEFORE THE STATE INFORMATION COMMISSION DATED 13-2-2013.
- EXHIBIT P3: COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 19-2-2013.
- EXHIBIT P4: COPY OF THE LETTER DATED 16-3-2013 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P5: COPY OF THE URGENT OFFICE NOTE CIRCULATED BY THE PETITIONER IN THE OFFICE.
- EXHIBIT P6: COPY OF THE ORDER OF TRANSFER AND POSTING S OF THE SECRETARIES OF THE GRAMA PANCHAYATHS DATED 9-1-2014.
- EXHIBIT P7: COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE 1ST RESPONDENT DATED 2-5-2014.
- EXHIBIT P8: COPY OF THE LETTER ISSUED BY THE PETITIONER TO THE STATE PUBLIC INFORMATION OFFICER, CHATHAMANGALAM GRAMA PANCHAYATH DATED 2-5-2014.
- EXHIBIT P9: COPY OF THE REPORT DATED 15-5-2014 SUBMITTED BY THE STATE PUBLIC INFORMATION OFFICER, SECRETARY OF THE CHATHAMANGALAM GRAMA PANCHAYATH.
- EXHIBIT P10: COPY OF THE NOTICE ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER DATED 23-07-2014.
- EXHIBIT P11: COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 29-09-2014.
- EXHIBIT P12: COPY OF THE REVIEW APPLICATION FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT DATED 25-10-2014.
- EXHIBIT P13: COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 3-12-2014.
- EXHIBIT P14: COPY OF THE LETTER ISSUED BY THE SECRETARY, CHATHAMANGALAM GRAMA PANCHAYATH TO THE 1ST RESPONDENT DATED 23-10-2014

RESPONDENT(S)' EXHIBITS : **NIL.**

//TRUE COPY//

P.A. TO JUDGE

P.R. RAMACHANDRA MENON J.

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W.P.(C) No. 7898 of 2015

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Dated, this the 13th day of March, 2015

JUDGMENT

The petitioner has approached this Court with the following prayers :

- i. Call for the records relating to Ext. P11 order of the 1st respondent and quash the same by issuing a writ of certiorari or other appropriate writ, order or direction as against the petitioner.
- ii. Issue a writ of certiorari or any other appropriate writ, order or direction quashing Ext. P2 order dismissing the review petition by the 1st respondent.
- Iii. Declare that the petitioner is not liable to pay the fine penalty for an amount of Rs. 12,500/ as directed by the 1st respondent in Ext. P11.
- iv. Declare that the 1st respondent State Information Commission have power to review its own order.
- v. Issue such other writ, order or direction which this Honourable Court may deem fit and proper in the facts and circumstances of this case.

2. Heard the learned counsel for the petitioner as well as the learned standing counsel appearing for the respondent Corporation.

3. After hearing both the sides and after going through the materials on record, this Court finds that some factual controversy is involved, which requires a relook of the entire state of affairs, so as to have a balance. This is more so in view of the fact that the issue pertains more to fixation of culpability of the concerned officer.

4. The learned counsel for the petitioner submits that being aggrieved of Ext. P11, Ext. P12 review was preferred before concerned authority, which however came to be rejected as per Ext. P13 holding that power of review is not vested upon the said authority.

5. After hearing both the sides, this Court finds that the matter requires to be considered with reference to the actual facts and figures, after affording an opportunity of hearing. Accordingly Exts. P11 and P13 are set aside and the first respondent is directed to reconsider the matter (in so far as the issue pertains to the petitioner herein) and pass a speaking order, after affording an opportunity of hearing, which shall be done, at the earliest, at any rate within two months from the date of receipt of a copy of this judgment.

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: 3 :

Petitioner shall produce a copy of this judgment along with copy of the writ petition before the first respondent for further steps.

The Writ Petition is disposed of.

Sd/-

**P. R. RAMACHANDRA MENON,
(JUDGE)**

kmd