

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 22ND DAY OF JULY 2015/31ST ASHADHA, 1937

WP(C) .No. 11742 of 2015 (P)

PETITIONER(S) :

SYAMALADEVI N.G.,
AGED 57 YEARS, W/O.R.SADASIVAN PILLAI,
THEKKEKKARA PUTHEN VEEDU,
NEELESWARAM P.O., NEDUVATHOOR, KOTTARAKARA,
KOLLAM-691 505.

BY ADVS.SRI.PRAVEEN K. JOY
SRI.T.A.JOY.

RESPONDENT(S) :

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1. NEDUVATHUR GRAMA PANCHAYATH,
NEELESWARAM P.O., KOLLAM DISTRICT-691 505,
REPRESENTED BY ITS SECRETARY.
 2. PRINCIPAL AGRICULTURAL OFFICER,
KOLLAM-691 001.
 3. AGRICULTURAL OFFICER,
NEDUVATHUR, KOTTARAKKARA-691 506.

*ADDL. R4 IS IMPEADED.

R4. R.GOPINATHAN NAIR,
SON OF LATE RAMAKRISHNA PILLAI, 'SAROVARAM',
NEDUVATHOOR, NEELESWARAM P.O., KOTTARAKKARA,
KOLLAM - 691 505.

(*ADDL.R4 IMPEADED AS PER ORDER DATED 02.06.2015 IN IA 6745/15.)

ADDL.R4 BY ADV. SRI.ALAN PAPALI
ADDL.R4 BY ADV. SRI.NISHIL P.S.
ADDL.R4 BY ADV. SRI.J.VIMAL
ADDL.R4 BY ADV. SRI.ANTONY ROBERT DIAS.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
22-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

- EXT. P1 : TRUE COPY OF THE CERTIFICATE OF REGISTRATION DT.11-10-12 OF R2.
- EXT. P2 : TRUE COPY OF THE APPLICATION FOR RENEWAL OF LICENCE DT.23-2-2015 WITH TRANSLATION.
- EXT. P3 : TRUE COPY OF THE RECEIPT DT.27-2-15 BEFORE R3.
- EXT. P4 : TRUE COPY OF THE LICENCE DT.24-11-14 OF R1 WITH TRANSLATION.
- EXT. P5 : TRUE COPY OF THE JUDGMENT DT.11-3-15 IN WPC 905/15.
- EXT. P6 : TRUE COPY OF THE APPLICATION DT.2-2-15 BEFORE THE R1 WITH TRANSLATION.
- EXT. P7 : TRUE COPY OF THE RECEIPT DT.2-3-15 OF R1.
- EXT. P8 : TRUE COPY OF THE NOTICE DT.4-4-15 OF R3 WITH TRANSLATION.
- EXT. P9 : TRUE COPY OF THE LICENCE DATED 23/05/2015 OF THE 1ST RESPONDENT.
- EXT. P10: THE TRUE PHOTOCOPY OF THE SANITARY CERTIFICATE DATED 22/05/2015 OF THE HEALTH INSPECTOR NEDUVATHOOR.

RESPONDENT(S) ' EXHIBITS :

- EXT. R2(A) : TRUE COPY OF THE LETTER NO.TA(3)3113/15 DATED 07/05/2015.
- EXT. R4(1) : TRUE COPY OF THE ORDER NO.A5-223/15 DATED 08/01/2015 ISSUED BY THE SECRETARY, NEDUVATHOOR GRAMA PANCHAYAT.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 11742 of 2015

Dated this the 22nd day of July, 2015

J U D G M E N T

Under challenge in this writ petition is Ext.P8 order passed by the 3rd respondent, which, according to the petitioner, was without affording the petitioner an opportunity of being heard.

2. The petitioner, who is a widow, alleges that she is conducting a retail unit of business in fertilizer for the last 36 years. According to the petitioner, it is a small business of selling the products of FACT, Ernakulam; the Indian Pottash Ltd., Kochi; the Agro Manure & Chemicals, Ernakulam; and the Universal Manure & Chemicals, Kollam. The petitioner alleges that the product comes in “sealed cover and sealed bag” and is sold upon the certificate of registration from the 2nd respondent, who permits retail outlet. The certificate of registration was valid from 10.03.2012 to 09.03.2015. According to her,

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there is no complaint that the fertilizer is sold in violation of any of the conditions of the certificate of registration. The petitioner submitted for renewal of the fertilizers' licences before the 3rd respondent on 23.02.2015 and the same was pending. The petitioner is conducting the fertilizer business in Building No.NP.IX/57 of the 1st respondent for the last 30 years and the business is being conducted even now in the same building. The petitioner has obtained valid licence from the 1st respondent grama panchayath for the year 2014-15, which was valid up to 31.03.2015. The application for renewal of D&O licence of the petitioner has been submitted for the year 2015-16 before the 1st respondent on 02.03.2015, which is pending before the 1st respondent for more than 30 days. Hence, according to the petitioner, going by the provision of Section 236 of the Panchayath Raj Act, there is deemed licence to the petitioner for her unit. In the meantime, the 3rd respondent came to the conclusion in the renewal application; and as per Ext.P8, it is stated that the

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application for renewal of fertilizers licence cannot be considered without the panchayath licence. According to the petitioner, the issuance of Ext.P8 is illegal, arbitrary, unreasonable and against the principles of natural justice and, therefore, liable to be interfered with. Hence, this writ petition.

3. An affidavit has been filed by the 2nd respondent, wherein it is stated that Ext.P8 issued by the 3rd respondent was withdrawn vide Ext.R2(a) dated 07.05.2015 of the 3rd respondent.

4. The additional 4th respondent, who was subsequently impleaded, has also filed a counter affidavit, contending that the licence issued to the petitioner for conducting fertilizer business in Room No.IX/57 of Neduvathoor Grama Panchayath in the name of the petitioner has already been cancelled; and hence, there cannot be any renewal of licence as per Ext.P6 application. He has produced Ext.R4(1), which is the order issued by the respondent panchayath cancelling the

licence of the petitioner.

5. In the reply affidavit filed by the petitioner, she has produced Ext.P9, which is the renewed licence dated 23.05.2015 issued by the 2nd respondent.

6. Arguments have been heard.

7. The learned counsel for the petitioner, inviting my attention to the counter affidavit filed by the 2nd respondent State, submitted that Ext.P18 has been withdrawn as per Ext.R2(a).

As Ext.P18, which is impugned in the writ petition, has been withdrawn, there is no surviving cause of action; and therefore, the writ petition is closed.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-