

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C) .No. 15507 of 2008 (U)

PETITIONER(S) :

1. GEORGE JOSEPH PODIPARA MEMORIAL WOMEN'S CHARITABLE TRUST
REG.NO.K.408/O6, ARPOOKARA, KOTTAYAM-8,
REP. BY ITS GRENERAL SECRETARY, ROSAMMA THOMAS,
KARUKAMALIYIL HOUSE, PERUMBAYIKKAD,
VILLAGE, KOTTAYAM.
2. ROSAMA THOMAS,
GENERAL SECRETARY,
GEORGE JOSEPH PODIPARA MEMORIAL WOMEN'S CHARITABLE TRUST,
PERUMBAYIKKAD VILLAGE, KOTTAYAM.

BY ADV. SRI.A.K.HARIDAS.

RESPONDENT(S) :

1. STATE OF KERALA,
REP. SECRETARY TO GOVERNMENT DEPARTMENT OF HEALTH AND FAMILY
WELFARE,
THIRUVANANTHAPURAM
2. THE DISTRICT COLLECTOR,
KOTTAYAM DISTRICT, (CHAIRMAN, M.C.H. DEVELOPMENT SOCIETY)
3. THE SUPERINTENDENT,
MEDICAL COLLEGE HOSPITAL, KOTTAYAM.
4. MEDICAL COLLEGE HOSPITAL DEVELOPMENT SOCIETY,
GANDHI NAGAR, KOTTAYAM-8,
REP. BY ITS SECRETARY, THE SUPERINTENDENT,
MEDICAL COLLEGE, HOSPITAL, KOTTAYAM.

R1-4 BY GOVERNMENT PLEADER SOJAN JAMES.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
14-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S) ' EXHIBITS :

EXT.P1 TRUE COPY OF THE REGISTRATION CERTIFICATE OF THE TRUST.

EXT.P2 TRUE COPY MEMORANDUM OF ASSOCIATION OF THE TRUST.

EXT.P3 TRUE COPY OF THE REGISTRATION BOOK OF VEHICLE NO.KL-05-S-3349.

EXT.P4 TRUE COPY OF THE JUDGMENT DATED 07/02/2008 IN WPC
NO.969/2008.

EXT.P5 TRUE COPY OF RECEIPT OF PAYMENT DATED 31/01/2008.

EXT.P6 TRUE COPY OF ORDER DATED 01/04/2008 BY 3RD RESPONDENT.

EXT.P7 TRUE COPY OF THE ENVELOP.

EXT.P8 TRUE COPY OF THE RECEIPT OF MONEY ORDER DATED 16/04/2008.

EXT.P9 TRUE COPY OF CERTIFICATE OF REGISTRATION OF KL-05-Y-7329 IN
THE NAME OF 1ST PETITIONER TRUST.

EXT.P10 TRUE COPY OF THE REPRESENTATION DATED 21/04/2008 IA
NO.10413/11.

RESPONDENT(S) ' EXHIBITS :

ANNEXURE R3(A) : TRUE COPY OF THE COVERING NOTE STATING THE LETTER UNDELIVERED.

ANNEXURE R3(B) : TRUE COPY OF THE NEWS ITEM REPORTED IN A LEADING NEWSPAPER.

ANNEXURE R3(C) : TRUE COPY OF THE NOTICE DATED 18/03/2008 ISSUED BY THE MEDICAL
COLLEGE HOSPITAL DEVELOPMENT SOCIETY.

/TRUE COPY/

P.A.TO JUDGE

RVS.

A.V.RAMAKRISHNA PILLAI, J

WPC No.15507 of 2008

Dated this the 14th day of October, 2015

JUDGMENT

The first petitioner is a registered trust and the second petitioner is the General Secretary of the trust. The trust is engaged in various social activities for the public, especially, for women. Trust is conducting an ambulance service. According to the petitioner, the third respondent prevented the trust from operating the ambulance service from Medical College Hospital Compound, Kottayam. The second petitioner filed Writ Petition No.969/2008 on behalf of the first petitioner. On the basis of the submission on behalf of the third respondent, the writ petition was closed. The petitioner trust was allowed to operate the ambulance from the Medical College Hospital Compound by paying an amount of ₹500/- per month. Thereafter on 2.4.2008, the trust was prevented from operating the ambulance from the Medical College Hospital compound stating that

registration of the vehicle is not in the name of the trust. The petitioners approached this Court and filed WPC No.11797/2008. By interim order dated 7.4.2008, this Court directed the third respondent not to prevent the trust from operating the ambulance, if the only reason is the registration of vehicle is not in the name of the trust. However, the petitioner received Ext.P6 order dated 1.4.2008 issued by the third respondent on 9.4.2008 through post after the interim order issued by this Court. Several other allegations were raised in Ext.P6 order which, according to the petitioner, are not correct. Ext.P6 order was passed without hearing the petitioner and no show cause notice was issued before passing Ext.P6 order; it is alleged. It is with this background the petitioner has come up before this Court.

2. Arguments have been heard.

3. When the case came up for hearing, the learned counsel for the petitioner made available a copy of the judgment of this Court in WPC No.11797/2008 to me for perusal. That writ petition was disposed of without

prejudice to the contentions of the petitioner in this writ petition and with liberty to raise all contentions in WPC No.11797/2008. The petitioner filed WPC No.11797/2008 complaining that in spite of Ext.P5 judgment produced in that case on the subject matter, the ambulance vehicle permitted to be operated from the premises of the Medical College was prevented from doing so on the allegation that the vehicle was registered in the name of the second petitioner therein.

4. It is an admitted fact that as per the judgment in WPC No.969/2008, the petitioner was permitted to operate the ambulance from the premises of the Medical College. In WPC No.11797/2008, the petitioner's allegation was that the petitioner was prevented from doing so only on the allegation that the vehicle was registered in the name of the second petitioner therein. Therefore, the learned Single Judge who entertained the interim application in WPC No.11797/2008 ordered that if that is the only reason for preventing the petitioner from operating the ambulance, the respondents are directed

not to prevent the petitioner from operating the ambulance from the Medical College.

As it appears from record that Ext.P6 was passed without hearing the petitioner, the matter has to be remitted back for re-consideration.

Therefore, Ext.P6 is quashed. The matter is remitted to the second respondent, the Chairman of M.C.H.Development Society to re-consider the issue, after affording the petitioners an opportunity of being heard. It shall be open to the petitioners to satisfy the committee that the ambulance vehicle is having a valid permit. If there is no other legal impediment in granting permit, the permit be granted to the petitioners.

The respondents shall have the liberty to interfere on account of any post operational variation by the petitioners.

**sd/- A.V.RAMAKRISHNA PILLAI
JUDGE**

css/

true copy

P.S.TO JUDGE