

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

TUESDAY, THE 23RD DAY OF JUNE 2015/2ND ASHADHA, 1937

WP(C).No. 12690 of 2015 (I)

PETITIONER(S):

**SUDHARMINI, AGED 52 YEARS,
D/O.SADASIVAN, RATHEESH MANDIRAM, POOLANTHARA,
SANTHIRIGI P.O., THIRUVANANTHAPURAM DISTRICT.**

BY ADV. SRI.J.JAYAKUMAR

RESPONDENT(S) :

- 1. THE ADDITIONAL CHIEF SECRETARY TO GOVERNMENT,
VIGILANCE DEPARTMENT, GOVERNMENT OF KERALA
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DIRECTOR,
VIGILANCE AND ANTI CORRUPTION BUREAU,
THIRUVANANTHAPURAM - 695 001.**
- 3. THE PANCHAYATH DIRECTOR,
OFFICE OF THE PANCHAYATH DIRECTOR,
THIRUVANANTHAPURAM - 695 002.**
- 4. THE SUPERINTENDENT OF POLICE,
VIGILANCE AND ANTI CORRUPTION,
THIRUVANANTHAPURAM - 695 001.**

BY GOVERNMENT PLEADER SRI.BIJU MEENATOOR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 23-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

Msd.

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT-P1: TRUE PHOTOGRAPH OF THE PETITIONER'S OLD HUT.

**EXHIBIT-P2: TRUE COPY OF THE IDENTITY CARD OF THE PETITIONER
SHOWING THE DISBURSEMENT OF THE AMOUNT.**

**EXHIBIT-P3: TRUE PHOTOGRAPH SHOWING THE NEWLY CONSTRUCTED
HOUSE OF THE PETITIONER.**

**EXHIBIT-P4: TRUE COPY OF THE ORDER DATED 30/01/2015 ISSUED BY
THE 3RD RESPONDENT.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msd.

K. VINOD CHANDRAN, J

W.P(C) No.12690 of 2015

Dated this the 23rd day of June, 2015

J U D G M E N T

The petitioner is aggrieved with Ext.P4 wherein amounts disbursed to her as per the Indira Avas Yojana (IAY) is sought to be recovered. The petitioner is said to have received financial assistance under the IAY scheme coming to an amount of Rs.74,710/-. The petitioner is also said to have constructed a small house with the above funds. However, later on, on complaint received, an enquiry was conducted by the Inspector of Police, Vigilance and Anti Corruption Bureau, SIU II Thiruvananthapuram. The officer has filed statement in which it is revealed that the petitioner has suppressed material facts while availing the grant under the Scheme.

2. The IAY Scheme is said to be one intended at helping the people coming from the marginalised section of the society. However, the petitioner and her husband had landed

properties and residential buildings in their names. It is also seen from the statement that the petitioner is living separated from her husband and children. In any event, these facts need not be gone into since the same is seized of by the Enquiry Commissioner and Special Judge, Thiruvananthapuram as per a report filed by the officer who has filed the statement in the above case.

3. What assumes significance as far as the recovery is concerned, is the fact that, the Director of Panchayat who issued Ext.P4 did not at all conduct an enquiry and based himself only on the enquiry conducted in the fact that a vigilance case filed against the petitioner. The facts revealed in the enquiry was for the purpose of filing a vigilance case, and the Director cannot direct recovery on the basis of the findings in the enquiry alone. If at all the Director wishes to rely on the various aspects brought out in the enquiry, the same has to be informed to the petitioner and the petitioner ought to be afforded an opportunity to file her

defense with substantiating materials and also afford an opportunity for hearing.

4. In such circumstance, Ext.P4 would stand set aside. The petitioner hence shall be issued with a notice listing out the various evidences against her. The petitioner shall file objections within a period of two weeks of receipt of the said notice and the Director after affording an opportunity of hearing shall dispose of the matter. It is made clear that this Court has not made any observation on the merits. The recovery steps are kept in abeyance till fresh orders are passed by the Director.

Writ petition allowed. No costs.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma

//true copy//

P.A to Judge