

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 30TH DAY OF JUNE 2015/9TH ASHADHA, 1937

WP(C).No. 13073 of 2015 (H)

PETITIONER(S):

1. **INDUS TOWER LTD.,
8TH FLOOR, VANKARATH TOWERS, NH BYE PASS,
PALARIVATTOM .P.O., KOCHI-682 324,
REPRESENTED BY ITS HEAD LEGAL, MR. PREMKRISHNAN NAIR.**
2. **PALATHRA CONSTRUCTIONS (PVT) LTD,
THURUTHY, CHANGANACHERRY, KOTTAYAM DISTRICT,
REPRESENTED BY ITS MANAGING DIRECTOR
MR. SHIBU MATHEW.**

BY ADV. SRI.V.PHILIP MATHEW

RESPONDENT(S):

1. **STATE OF KERALA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF INFORMATION TECHNOLOGY,
KERALA GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
2. **UNION OF INDIA,
REPRESENTED BY ITS SECRETARY,
MINISTRY OF COMMUNICATIONS AND IT,
DEPARTMENT OF TELE COMMUNICATIONS,
SANCHAR BHAVAN, 20,
ASHOKA ROAD, NEW DELHI-110 001.**
3. **DISTRICT TELECOM COMMITTEE,
COLLECTORATE, PAINAVU, IDUKKI DISTRICT- 685 603,
REPRESENTED BY ITS CHAIRMAN.**
4. **MANAKAD GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
OFFICE OF THE GRAMA PANCHAYAT, CHITTOOR, THODUPUZHA,
PUTHUPARIYARAM P.O., 685 608., IDUKKI DISTRICT.**
5. **SECRETARY, MANAKAD GRAMA PANCHAYAT,
OFFICE OF THE GRAMA PANCHAYAT, CHITTOOR, THODUPUZHA,
PUTHUPARIYARAM P.O.-685 608, IDUKKI DISTRICT.**

WP(C).NO.13073/2015

6. DISTRICT COLLECTOR,
COLLECTORATE, PAINAVU, IDUKKI,
IDUKKI DISTRICT-685 603.
7. SUPERINTENDENT OF POLICE,
IDUKKI DISTRICT-685 603.
8. DEPUTY SUPERINTENDENT OF POLICE,
THODUPUZHA -685 584
9. VISWAMBHARAN,S/O.SANKARAN,
KUTTIYANIKKAL HOUSE, PUTHUPARIYARAM P.O.,
THODUPUZHA, IDUKKI DISTRICT-685 608
10. SHAJU V. GEORGE,S/O.GEORGE,
VANNILATHU HOUSE, PUTHUPARIYARAM P.O.,
MANAKAD VILLAGE, THODUPUZHA,
IDUKKI DISTRICT- 685 608
11. JOSEPH, S/O.VARKEY,
VAYALIL HOUSE, PUTHUPARIYARAM P.O.,
THODUPUZHA, IDUKKI DISTRICT-685 608
12. SURESH, S/O.CHOTHI,
KARIKOCHIN HOUSE, PUTHUPARIYARAM P.O.,
THODUPUZHA, IDUKKI DISTRICT- 685 608
13. JAMES,S/O.AUGUSTY,
KAKKATTUPILLIL HOUSE, PUTHUPARIYARAM P.O.,
THODUPUZHA, IDUKKI DISTRICT-685 608
14. SIMON, S/O.VARGHESE,
EZHUTHUPALLIYIL HOUSE, PUTHUPARIYARAM P.O.,
THODUPUZHA, IDUKKI DISTRICT- 685 608
15. JOSE, S/O.DOMINIC,
MUKKILIKKATTTU HOUSE, PUTHUPARIYARAM P.O.,
THODUPUZHA, IDUKKI DISTRICT- 685 608

R1,R6 TO R8 BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR
R2 BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL
SMT.MINI GOPINATH, CGC
R4 & R5 BY ADV. SRI.P.C.HARIDAS
R10 BY ADVS. SRI.P.B.KRISHNAN
SRI.SABU GEORGE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 30-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1: COPY OF THE BUILDING PERMIT DATED 27.4.2013.**
- EXHIBIT P2: COPY OF THE NOTICE ISSUED BY THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS IN APPEAL NO.690/13.**
- EXHIBIT P3: COPY OF THE ORDER IN APPEAL NO.690/13.**
- EXHIBIT P4: COPY OF RENEWED BUILDING PERMIT NO.A2-1274/13 DATED 21.6.2014 ISSUED BY THE MANAKKAD GRAMA PANCHAYAT TO THE 5TH RESPONDENT.**
- EXHIBIT P5: COPY OF THE JUDGMENT IN WPC NO.15250/13.**
- EXHIBIT P6: COPY OF THE JUDGMENT IN WPC.NO. 33585/2014.**
- EXHIBIT P7: COPY OF THE COMMUNICATION DATED 20.4.2015.**

RESPONDENT(S)' EXHIBITS:

- EXHIBIT R10(A): COPY OF THE STOP MEMO NO.A17774/2015 DATED 23/1/2015 (CORRECT DATE 23/4/2015)**
- EXHIBIT R10(B): COPY OF THE STOP MEMO NO.502/DID/M2015 DATED 29/6/2013**
- EXHIBIT R10(C): COPY OF THE PLAINT IN O.S.NO.131 OF 2013 BEFORE THE MUNSIFF'S COURT, THODUPUZZHA**
- EXHIBIT R5(A): COPY OF THE STOP MEMO ISSUED BY THE 6TH RESPONDENT**

/TRUE COPY/

P.A.TO JUDGE

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A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.13073 of 2015

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Dated this the 30th day of June, 2015

JUDGMENT

Aggrieved by the non-renewal of permit which expired on 26.4.2015 as per Ext.P4 for construction of mobile telecommunication tower, the petitioners have come up before this Court.

2. The writ petition is filed challenging Ext.P4 prescribing the validity of a building permit which expired on 26.4.2015, ignoring Rule 130 of the Kerala Panchayat Building Rules, 2011 and challenging Ext.P7 refusing to renew Ext.P4. The petitioners allege that by Ext.P4, the validity of Ext.P1 building permit was extended on 21.6.2014. As per the Rules, the petitioners are entitled to get time of one year for the construction. That time was not granted through Ext.P4; it is alleged.

3. The grievance of the petitioners is that they could not complete the construction of the mobile telecommunication tower due to various litigations and interference by statutory authorities. However, the third respondent based on Ext.P6 granted police

protection for the constructions from 23.4.2015. According to the petitioners, going by Ext.P4, the permit would expire on 26.4.2015. Hence, it is impossible to complete the construction within that time. It is with this background, the petitioners have come up before this Court with this writ petition.

4. In the counter affidavit filed by the respondents they would contend that it is true that the first petitioner submitted an application for renewal of the permit on 19.3.2015 and remitted a fee of ₹5,000/-. They would further contend that on a perusal of the files it was revealed that Ext.P1 permit was once renewed. As per Rule 130(7) of KPBR, the renewal can only be for once. Hence, by Ext.P7, the first petitioner was informed that no further renewal of permit could be granted and the fee remitted by him would be returned. According to them, Ext.P7 was issued strictly in accordance with law.

5. Arguments have been heard.

6. As the petitioners have already availed the opportunity of renewal as per the Rules, the only option before them is to approach the appropriate authority with a fresh application, if they choose.

Therefore, this writ petition is disposed of reserving the right of the petitioners to approach the appropriate authority with a fresh application, so that the authority concerned can consider the same and pass appropriate orders after affording the petitioners and the tenth respondent an opportunity of being heard.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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