

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 21ST DAY OF OCTOBER 2015/29TH ASWINA, 1937

WP(C).No. 13357 of 2014 (S)

PETITIONER:

**P.K. RAJU, TC 1/1536(4), LENIN BHAVAN,
MEDICAL COLLEGE P.O.,
THIRUVANANTHAPURAM, CHAIRMAN,
"AROGYA NIYAMA SAMRAKSHANA PRATHIKARANA VEDI,
REG.NO.TVM/TC/533/2013, VANCHIYOOR,
THIRUVANANTHAPURAM.**

**BY SRI.RANJITH THAMPAN(SENIOR ADVOCATE)
ADV. SMT.P.RREENA**

RESPONDENT(S):

- 1. KERALA ROAD FUND BOARD,
REP.BY THE CHIEF EXECUTIVE OFFICER, TC 4/1654,
MAYOORAM NO.7, BETHOVAN GARDENS, KOWDIAR,
THIRUVANANTHAPURAM, PIN - 695003.**
- 2. THIRUVANANTHAPURAM ROAD DEVELOPMENT
COMPANY LIMITED, REP.BY PROJECT DIRECTOR,
TC.26/1309(4), "UTHRADAM", PANAVIDA JUNCTION,
THIRUVANANTHAPURAM, PIN - 695001.**
- 3. STATE OF KERALA,
REP.BY CHIEF SECRETARY,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001.**
- 4. ASSISTANT POLICE COMMISSIONER,
TRAFFIC NORTH SUB DIVISION,
THIRUVANANTHAPURAM CITY,
THIRUVANANTHAPURAM, PIN - 695001.**

**R1 BY ADV. SRI.ZAKIR HUSSAIN, SC
R2 BY ADV. SRI.V.KRISHNA MENON
R3 & R4 BY SENIOR GOVERNMENT PLEADER SRI.P.IDAVIS**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 21-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXHIBIT-P1:** TRUE COPY OF THE REPLY ISSUED BY THE KERALA ROAD FUND BOARD UNDER RIGHT TO INFORMATION ACT DATED 8.4.2013 WITH ENGLISH TRANSLATION.
- EXHIBIT-P2:** TRUE COPY OF THE REPLY FROM THE ROAD FUND BOARD DATED 21.10.2013 WITH ENGLISH TRANSLATION.
- EXHIBIT-P3:** TRUE COPY OF THE MASS REPRESENTATION FILED BY THE PETITIONER AND OTHERS THROUGH SUTHARYA KERALAM DATED 11.11.2013 WITH ENGLISH TRANSLATION.
- EXHIBIT-P4:** TRUE COPY OF THE RELEVANT WEB-PAGE OF KERALA ROAD FUND BOARD.
- EXHIBIT-P5:** TRUE COPY OF THE NEWS ITEM THAT APPEARED IN THE HINDU ON 17.3.2015.

RESPONDENT(S)' EXHIBITS:

- EXT. R1(A) :** TRUE COPY OF THE NOTICE DATED 2.12.2013 ISSUED TO THE 1ST RESPONDENT.
- EXT. R1(B) :** TRUE COPY OF THE COMPLAINT DATED 29.11.2013.

//TRUE COPY//

P.S. TO JUDGE

mbr/

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

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W.P. (C) No. 13357 of 2014

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Dated this, the 21st day of October, 2015

J U D G M E N T

Shaffique, J.

Petitioner has approached this Court by filing this Public Interest Litigation seeking for the following reliefs:-

“(i) Issue a writ in the nature of mandamus commanding the 1st respondent and the 2nd respondent not to proceed with construction, renovation and expansion of the present Pattom-Murinjapalam-Medical College-Ulloor road unless and until the present utility cables passing through the middle of the present road is shifted to the sides of the road (under the footpath).

(ii) Issue a writ in the nature of mandamus commanding the 1st and 2nd respondent not to proceed with construction of median at the Medical College junction without providing sufficient space for the free ingress-egress of the ambulance as well as other vehicles services to the Medical College Hospital compound and also provide a safe passage for the pedestrians to the Medical College Compound.”

2. The main grievance projected by the petitioner is with

-:2:-

reference to the work undertaken by the Thiruvananthapuram Road Development Company Ltd in regard to modification of Pattom-Murinjapalam-Medical College-Ulloor road. It is stated that though the work had started and the expansion has proceeded further, still the work had not reached its logical conclusion. Petitioner's grievance is with reference to the manner in which the foot path is being constructed without providing sufficient facility for public utility services and drainage facilities. It is contended that the sewage, drinking water activity, telephone cables, electricity cables etc., are passing through the middle portion of the existing road. This, according to the petitioner, will cause subsequent inconvenience when any repair or further installation of the services which are required to be carried out, in which event, the road will have to be cut open.

3. Counter affidavit has been filed by the 1st respondent inter alia disputing the right of the petitioner to approach this Court in a Public Interest Litigation. It is stated that the petitioner has been constantly disrupting the activities of the respondents in developing the road and on 14/11/2013, petitioner and his men had obstructed the construction work and prevented the workers

-:3:-

of the 2nd respondent from carrying on their work. Complaint also has been filed as Ext.R1(a) to the police. That apart, it has been stated that appropriate steps had been taken by the Road Development Authority to ensure that the project is completed within a time frame and the laying of cables etc., by various agencies are in the domain of such agencies, which cannot be controlled by the respondents.

4. Learned Government Pleader appearing on behalf of the 3rd respondent submits that as far as the drawing of cables are concerned, the same are within the domain of each and every department who are not made parties to the aforesaid case. The work had been undertaken by the 2nd respondent which had to be completed within a time frame and the work having started in the year 2004, petitioner has approached this Court only in the year 2014. That apart, 90% of the work had already been completed.

5. Having regard to the aforesaid factual situation, we do not think that the issues projected by the petitioner can be decided in a Public Interest Litigation. These are all matters which are in the jurisdiction of various agencies to be considered in appropriate forum and cannot be monitored, or be adjudicated by

this Court. It cannot be disputed that sufficient space is not available for providing infrastructure facilities as far as the State is concerned and it is for the concerned departments to ensure that least inconvenience is caused in the matter relating to providing infrastructure facilities, which include drawing of pipe lines, electricity cables, telephone cables, etc. These are all matters which have to be considered by the Government as a matter of public policy. Hence, we do not intend to issue any direction as prayed for in this writ petition.

Writ petition is dismissed.

Sd/-

ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-

A.M. SHAFFIQUE, JUDGE

Rp

21/10/2015

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PS to Judge