

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE SMT. JUSTICE P.V.ASHA

MONDAY, THE 26TH DAY OF OCTOBER 2015/4TH KARTHIKA, 1937

WP(C).No. 13287 of 2015 (I)

PETITIONER:

USHASKUMAR, AGED 35 YEARS
S/O SURENDRAN, USHAS BHAVAN, KOTTUKAL DESOM
PAYATHUVILA P.O., NEYYATTINKARA.

BY ADV. SRI.G.SUDHEER

RESPONDENTS:

1. KOTTUKAL GRAMA PANCHAYAT
REPRESENTED BY ITS SECRETARY, KOTTUKAL P.O.
THIRUVANANTHAPURAM-695001.

2. OVERSEER
KOTTUKAL GRAMA PANCHAYAT, KOTTUKAL P.O.
THIRUVANANTHAPURAM-695001.

3. P.N.YASODARA,
S.G.BHAVAN, UCHAKADA, PAYATTUVILA P.O.
THIRUVANANTHAPURAM-695001.

R1 BY ADV. SRI.B.S.SWATHY KUMAR
R1 BY ADV. SRI.REMYA MURALI
R1 BY ADV. SRI.VENKATESH GOPI
R1 BY ADV. SMT.T.RESHMA
R3 BY ADV. SRI.S.MOHAMMED AL RAFI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26-10-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

RKC

WP(C).No. 13287 of 2015 (I)

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: TRUE COPY OF THE CONSENT LETTER ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXHIBIT P2: TRUE COPY OF THE APPROVED PLAN FOR THE BUILDING OF PETITIONER ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P3: TRUE COPY OF THE ORDER IN COMPLAINT NO.1512/2014 OF THE HONOURABLE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

3RD RESPONDENT'S EXHIBITS

R3(A): COPY OF THE REPORT PREPARED BY THE OVERSEER OBTAINED UNDER RIGHT TO INFORMATION ACT

R3(B): COPY OF THE REPORT PREPARED BY THE OVERSEER OBTAINED UNDER RIGHT TO INFORMATION ACT

RKC

TRUE COPY

PA TO JUDGE

P.V.ASHA, J.

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W.P.(C) No.13287 of 2015
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Dated this the 26th day of October, 2015

JUDGMENT

The petitioner has filed this writ petition challenging Ext.P3 order passed by the Ombudsman for Local Self Government Institutions in complaint No.1514 of 2014, on the ground that a direction has been issued to the 1st respondent-Grama Panchayat to demolish the unauthorised construction which was the subject matter of the complaint within a period of three months. The unauthorised construction referred to therein belongs to the petitioner and the order-Ext.P3 is passed without notice or affording an opportunity of hearing to the petitioner. According to the petitioner the said construction is in accordance with the rules.

2. I heard the learned counsel appearing for the petitioner, the Grama Panchayat as well as the third respondent, who was the complainant before the Ombudsman.

3. It is an admitted case that the impugned order which affects the petitioner adversely is passed behind his back. In the

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circumstances of the case, it is only just and proper that the Ombudsman pass fresh orders after hearing the petitioner herein also.

Hence, for the limited purpose of affording an opportunity of hearing to the petitioner, I quash Ext.P3 and remit the matter to the Ombudsman, who shall pass orders afresh, after hearing the petitioner herein. The orders shall be passed within a period of three months from the date of receipt of a copy of this judgment. The petitioner will be free to submit his objections before the Ombudsman, if any, along with the copies of the judgment and that of the writ petition.

The writ petition is disposed of accordingly.

**P.V.ASHA,
JUDGE.**

rkc