

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 15TH DAY OF JULY 2015/24TH ASHADHA, 1937

WP(C).No. 14194 of 2015 (Y)

PETITIONER :

**DR.SHAJAHAN YOOSAF SAHIB, AGED 53 YEARS,
S/O.LATE E.A.YOOSAF SAHIB, MANAGING DIRECTOR,
AL-SHIFA SUPER SPECIALITY HOSPITAL, 50/2326-C (3)
N.H.17, NEAR RAILWAY OVER BRIDGE, EDAPPALLY
KOCHI - 682 024.**

BY ADV. SRI.ESM.KABEER

RESPONDENTS :

- 1. STATE OF KERALA
REPRESENTED BY SECRETARY TO LOCAL SELF GOVERNMENT
GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM - 695 001.**
- 2. THE CHIEF TOWN PLANNER,
THIRUVANANTHAPURAM - 695 001.**
- 3. COCHIN CORPORATION,
REPRESENTED BY ITS SECRETARY,
CORPORATION OFFICE, KOCHI 31.**
- 4. ASSISTANT EXECUTIVE ENGINEER,
CORPORATION OF COCHIN, ZONAL OFFICE, EDAPPALLY
COCHIN 24.**
- 5. HEALTH OFFICER,
CORPORATION OF COCHIN, ZONAL OFFICE, EDAPPALLY
COCHIN 24.**

**R1 & 2 BY GOVERNMENT PLEADER SMT. ANITHA RAVEENDRAN
R3 TO R5 BY ADV. SRI.K.ANAND, SC,
BY SRI.P.K.SOYUZ,SC,**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 15-07-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE BUILDING PERMIT ISSUED TO THE THEN OWNER DATED 13/5/2008.
- EXT.P2: TRUE COPY OF THE BUILDING PERMIT ISSUED IN THE NAME OF THE PETITIONER DATED 20/0/2014.
- EXT.P3: TRUE COPY OF THE REGISTRATION CERTIFICATE ISSUED UNDER THE KERALA MUNICIPALITY (REGISTRATION OF PRIVATE HOSPITAL AND PRIVATE PARAMEDICAL INSTITUTIONS) RULES, 1997 DATED 5/12/2013.
- EXT.P4: TRUE COPY OF THE RENEWAL OF REGISTRATION CERTIFICATE OF THE YEAR 2014-15.
- EXT.P5: TRUE COPY OF THE APPLICATION FOR RENEWAL OF REGISTRATION SUBMITTED BEFORE THE 3RD RESPONDENT DATED 22/1/2015.
- EXT.P6: TRUE COPY OF THE REPLY ISSUED BY THE 5TH RESPONDENT DATED 30/1/2015
- EXT.P7: TRUE COPY OF THE APPLICATION FOR RENEWAL OF REGISTRATION DATED 10/2/2015.
- EXT.P8: TRUE COPY OF THE RECEIPT ISSUED FROM THE CORPORATION DATED 10/2/2015.
- EXT.P9: TRUE COPY OF THE COMMUNICATION FROM IMAGE DATED 12/11/2013.
- EXT.P10: TRUE COPY OF THE BUILDINGS TAX RECEIPTS.
- EXT.P11: TRUE COPY OF THE PROFESSION TAX RECEIPT DATED 5/2/2015.
- EXT.P12: TRUE COPY OF THE NOTICE ISSUED BY THE 4TH RESPONDENT DATED 17/5/2014.
- EXT.P13: TRUE COPY OF THE REPLY TO EXT.P12 DATED 6/6/2014.
- EXT.P14: TRUE COPY OF THE NOTICE ISSUED BY THE 5TH RESPONDENT DATED 29/9/2014.
- EXT.P15: TRUE COPY OF THE NOTICE ISSUED BY THE 5TH RESPONDENT DATED 19/1/2015.
- EXT.P16: TRUE COPY OF THE REPLY TO EXHIBIT P15 DATED 2/1/2015.
- EXT.P17: TRUE COPY OF THE RELEVANT EXTRACT OF THE GOVERNMENT ORDER NO.GOMS NO.39/2014 DATED 14/2/2014.
- EXT.P18: TRUE COPY OF THE APPLICATION FOR REGULARIZATION SUBMITTED BEFORE THE 1ST RESPONDENT DATED 19/7/2014.
- EXT.P19: TRUE COPY OF THE RECEIPT FOR EXHIBIT P18 DATED 19/4/2014.
- EXT.P20: TRUE COPY OF THE GOP NO.144/2013/H & FWD TRIVANDRUM DATED 22/4/2013.

RESPONDENT(S)' EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 14194 of 2015

Dated this the 15th day of July, 2015

J U D G M E N T

Aggrieved by the delay in renewing the registration certificate based on Ext.P7 under the Kerala Municipality (Registration of Private Hospitals and Private Paramedical Institutions) Rules, 1997, the petitioner has come up before this Court.

2. The petitioner is the Managing Director of Al Shifa Super Specialty Hospital, Edappally, which is functioning for the last more than 12 years. As per Exts.P3 and P4, registration certificate was issued till 2014-2015 under the Kerala Municipality (Registration of Private Hospitals & Paramedical Institutions) Rules, 1997. The petitioner alleges that the application for renewal (Ext.P7) dated 10.02.2015 for 2015-16 was not considered and petitioner was not permitted to remit the required fee. He was issued with Exts.P12, P14 & P15 notices by respondents 4 & 5, directing to show cause against the

..2..

cancellation of registration certificate. The petitioner submitted reply vide Exts.P13 & P16. The petitioner alleges that he has completed the construction of the building on 19.07.2014. His grievance is that though as per Ext.P18, application for regularization was submitted before the 1st respondent through the 3rd respondent, no step has been taken to inspect the building nor considered the application. He has also remitted ₹35,000/- as per Ext.P19. According to the petitioner, because of the delay in renewing the registration certificate pursuant to Ext.P7 application, serious prejudice has been caused for the running of the hospital. Hence, this writ petition.

3. A counter affidavit has been filed by the respondent corporation, wherein it is contended that the reply given by the petitioner was not satisfactory; and consequently, a show cause notice was issued to the petitioner on 19.01.2015 enquiring as to why further proceedings should not be initiated. To the said show cause notice, the petitioner sent a reply requesting that he may be personally heard, by communication dated

..3..

24.01.2015. However, the petitioner has not obtained order of regularization from the Government; it is contended. Therefore, they have taken the stand that as the hospital is functioning in a building, which is an unauthorized construction, the registration for the year 2015-16 cannot be renewed.

4. Arguments have been heard.

Considering the facts and circumstances of the case, the writ petition is disposed of directing the 1st respondent to consider Ext.P18 application for regularization within a period of two weeks from the date of receipt of a copy of this judgment.

Till that exercise is completed, no coercive action shall be taken against the petitioner.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

bka/-