

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 5TH DAY OF AUGUST 2015/14TH SRAVANA, 1937

WP(C).No. 15669 of 2015 (G)

PETITIONER(S):

1. **P.K.PAVITHRAN,
S/O.KUMARAN, ORI, PADANNA P.O.,
CHERUVATHOOR (VIA), KASARAGOD DISTRICT.**
2. **K.P. SURESHBABU,
S/O.PRABHAKARAN, AZHITHALA,
THAIKADAPPURAM P.O. - 671 314, KASARAGOD DISTRICT.**

**BY ADVS.SRI.M.SASINDRAN
SRI.S.SHYAM KUMAR**

RESPONDENT(S):

1. **STATE OF KERALA,
REPRESENTED BY SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
2. **THE PADANNA GRAMA PANCHAYATH,
PADANNA, P.O.PADANNA, KASARAGOD DISTRICT,
REPRESENTED BY ITS SECRETARY - 671 121.**
3. **THE NILESHWARAM MUNICIPALITY,
NILESHWARAM PO, KASARAGOD DISTRICT,
REPRESENTED BY ITS SECRETARY.**
4. **THE DELIMITATION COMMISSION,
REPRESENTED BY THE STATE ELECTION COMMISSION,
CORPORATION OFFICE COMPLEX, LMS JUNCTION, PALAYAD,
THIRUVANANTHAPURAM - 695 001.**
5. **THE STATE ELECTION COMMISSION,
REPRESENTED BY THE STATE ELECTION COMMISSION,
CORPORATION OFFICE COMPLEX, LMS JUNCTION, PALAYAD,
THIRUVANANTHAPURAM - 695 001.**

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6. THE CHIEF ELECTORAL OFFICER,
ELECTION DEPARTMENT, KERALA LEGISLATIVE COMPLEX,
VIKAS BHAVAN P.O., THIRUVANANTHAPURAM - 695 001.

7. THE DIRECTOR OF PANCHAYATHS,
THIRUVANANTHAPURAM - 695 001.

* ADDITIONAL R8 IMPEADED.

8. T.P.ABDUL MUTHALIB, S/O.T.K.MAMMU,
PADANNAKALIKADAVU, PADANNA P.O.,
KOSARGOD DISTRICT.

* ADDITIONAL R8 IMPEADED AS PER ORDER DTD.10.6.2015 IN IA.7269/2015.

R1 BY GOVERNMENT PLEADER SRI.TOM K. THOMAS
R2 BY ADV. SMT.I.SHEELA DEVI
R3 BY ADV. SRI.SURESH KUMAR KODOTH
R4 TO R6 BY ADV. SRI.MURALI PURUSHOTHAMAN, SC
R8 BY ADV. SRI.GEORGE POONTHOTTAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-06-2015, THE COURT ON 05-08-2015, DELIVERED THE FOLLOWING:

msv/

APPENDIX

PETITIONER(S)' EXHIBITS

P1:A TRUE RELEVANT COPY OF THE REPORT OF THE IVTH STATE FINANCE COMMISSION.

P2:A TRUE COPY OF THE RELEVANT EXTRACTS FROM THE ACTION TAKEN REPORT ON THE FINANCE COMMISSION REPORT, ACCEPTING THE ABOVE QUOTED RECOMMENDATION OF THE FINANCE COMMISSION, BY THE GOVERNMENT.

P3:A TRUE COPY OF THE GO DATED 27.11.2014.

P3 A:A TRUE COPY OF THE REPORT SUBMITTED BY THE COMMITTEE.

P4:A TRUE COPY OF THE NOTIFICATION DATED 25.01.2015 ISSUED BY THE GOVERNMENT.

P5:A TRUE COPY OF THE OBJECTION SUBMITTED BY THE FIRST PETITIONER.

P6:A TRUE COPY OF THE OBJECTION SUBMITTED BY THE 2ND PETITIONER ALONG WITH THE 165 OTHER PERSONS RESIDING IN AZHITHALA.

P7:A TRUE COPY OF THE RESOLUTION OF PADANNA GRAMA PANCHAYATH DATED 03.07.2014.

P8:A TRUE COPY OF THE OBJECTION SUBMITTED BY THE PRESIDENT OF THE PANCHAYATH.

P9:A TRUE COPY OF THE RESOLUTION DATED 05.02.2015 ADOPTED BY THE PANCHAYATH COMMITTEE.

P10:A TRUE COPY OF THE RESOLUTION DATED 02.02.2015 ADOPTED BY THE NILESHWARAM MUNICIPAL COUNCIL OBJECTED TO THE INCLUSION OF AZHITHALA AREA OF PADANNA PANCHAYTH.

P11:A TRUE COPY OF THE CERTIFICATE DATED 13.05.2015 ISSUED BY THE SECRETARY, PADANNA GRAMA PANCHAYATH.

P12:A TRUE COPY OF THE SKETCH OF THE PADANNNA GRAMA PANCHAYTH.

P13:A TRUE COPY OF THE G.O. (P) NO.145/2015/LSGD DATED 30.04.2015.

P14:TRUE COPY OF THE NOTIFICATION DATED 30.04.2015

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RESPONDENT(S)' EXHIBITS:

**EXT.R8(a): TRUE COPY OF THE MAP CONTAINING THE AREA OF NEELESWARAM
MUNICIPALITY AND PADANNA GRAMA PANCHAYAT.**

EXT.R8(b): TRUE COPY OF THE REPRESENTATION DATED 24.11.2014.

EXT.R8(c): TRUE COPY OF THE PROCEEDINGS NO.A2-530/15 DTD.6.2.2015.

//TRUE COPY//

P.S.TO JUDGE

MsV/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.15669 of 2015

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Dated this the 5th day of August, 2015

JUDGMENT

Under challenge in this writ petition is G.O(P) No.145 and 147/2015/LSGD. dated 30.4.2015 by which certain areas of Padanna Grama Panchayat was ordered to be linked with Neeleswaram Municipality.

2. The petitioners are the residents of Padanna Grama Panchayat. The second petitioner is residing at a place called Azhithala which is part of Ward No.1 of the aforesaid panchayat. According to the petitioners, Azhithala is a rural area and 95% of the people are residing in Azhithala as fisherman. There is no symptoms of urbanisation in the area. There is no non-agricultural income at all; it is pointed out.

3. The petitioners allege that by Ext.P4, the Government notified this area to be converted as a part of Neeleswaram Municipality. According to the petitioners, this was objected to by the panchayat, municipality and almost all persons residing within the Azhithala area. However, in spite of those objections, this area

has been declared as smaller urban area by Ext.P14 and by Ext.P14, transferred this area to Neeleswaram Municipality. According to the petitioners, the intention is to redetermine the number of wards in Padanna Panchayat and to redraw the boundaries to suit the ruling political parties. According to the petitioners, the conversion of this area which is a rural area as municipality and transferring to nearby municipality causes serious prejudice to the people. It is with this background, the petitioners have approached this Court.

4. Subsequent to the filing of the writ petition, a local resident of Padanna village got himself impleaded as additional 8th respondent.

5. In the counter affidavit filed by the State, the inclusion of Padanna Grama Panchayat to Neeleswaram Municipality was justified as the decision was taken adopting objective standards. It was also pointed out that by annexing the area of Neeleshwaram, none of the right of the petitioners or anybody else is going to be infringed.

6. I have heard Mr. M.Sasindran, the learned counsel for the petitioners, the learned Advocate General, ably assisted by Mr. Tom

K.Thomas, the learned Special Government Pleader, Mr. Murali Purushothaman, the learned standing counsel for the State Election Commission and the Delimitation Commission, who acted as a ready reckoner of the various judicial pronouncements in the realm, and Mr. George Poonthottam, learned counsel for the additional 8th respondent quite *in extenso*.

7. The argument advanced by the petitioners is that Azhithala is a rural area. This fact is controverted by the State as well as the additional 8th respondent. The additional 8th respondent has produced Ext.R8(a) to establish that Azhithala which is now joined with Neeleswaram Municipality lies far away from Padanna Grama Panchayat and is in fact a integral part of Neeleswaram Municipality. Ext.R8(a) is the copy of the map pertaining to the Neeleswaram Municipality.

8. It was pointed out that for availing any of the facilities provided by the grama panchayat, the people residing at Azhithala have to travel through Neeleswaram Municipality and thereafter they have to pass through Cheruvathoor Grama Panchayat and through Padanna Grama Panchayat. The distance thus to be recovered is more than 22 kilometres and the area between

Azhithala and Padanna is separated by water which is having a width of more than 3 kilometres. There is no transport facility to cross the water. It is with this background, the general public of Azhithala represented to the Government for joining Azhithala to Neeleswaram Municipality which would facilitate the people of Azhithala to avail the facilities provided by the local body more effectively. Copy of the said representation is produced as Ext.R8 (b).

9. It was further pointed out that there were other representations also. Ext.R8(c) which is the copy of the proceedings of the panchayat was also produced. Ext.R8(c) would reveal that though there was a dissent by the members against the joining of Azhithala with Neeleswaram, a resolution was passed with the dissent of certain groups of members.

10. It cannot be said that the decision of the Government to covert the rural area into smaller urban area is incompetent in the light of the decision in **Sreekala K v. State of Kerala** [2010 (3) KHC 385] wherein it was held that there is no prohibition in the Indian Constitution or under the Municipality Act against the linking of a village panchayat declared as a larger urban area to a

municipality.

On a consideration of the entire facts and circumstances of the case, this Court is of the view that the petitioners are not entitled to the relief as prayed for.

In the result, the writ petition fails and accordingly, it is dismissed.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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/true copy/

P.A to Judge