

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYAISHTA, 1937

WP(C).No. 16566 of 2015 (U)

PETITIONER(S):

1. P.G.RADHAKRISHNAN, AGED 48,
S/O.GANGADHARAN, PUTHUR HOUSE,
PANAMBIKKUNNU, KAIPAMANGALAM P.O.,
KODUNGALLUR TALUK, THRISSUR-680 681.
2. ARAVINDAKSHAN, AGED 60, S/O.KUMARAN,
PUTHUR HOUSE, PANAMBIKKUNNU,
KAIPAMANGALAM P.O., KODUNGALLUR TALUK,
THRISSUR-680 681.
3. KRISHNADAS, AGED 40, S/O.KARAPPAKUTTY,
PUTHUR HOUSE, PANAMBIKKUNNU,
KAIPAMANGALAM P.O., KODUNGALLUR TALUK,
THRISSUR-680 681.

BY ADV. SMT.R.PADMAKUMARI

RESPONDENT(S):

1. THE DISTRICT COLLECTOR, THRISSUR - 680 001.
2. THE KERALA STATE POLLUTION CONTROL BOARD,
REPRESENTED BY ITS ENVIRONMENTAL ENGINEER,
6TH FLOOR, SUN TOWER, EAST FORT P.O.,
THRISSUR-680 005.
3. KAIPAMANGALAM GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
KAIPAMANGALAM P.O., THRISSUR-680 681.
4. KANNAN, AGED 32, S/O.GANGADHARAN, NADAKKAL VEEDU,
PANAMBIKKUNNU, KAIPAMANGALAM P.O.,
KODUNGALLUR TALUK, THRISSUR-680 681.

R1 BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR

R2 BY SRI. M.AJAY, SC

R3 BY ADVS. SRI.BABU KARUKAPADATH

SMT.M.A.VAHEEDA BABU

SRI.K.A.NOUSHAD

SRI.MITHUN BABY JOHN

SRI.J.RAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-06-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS:

- P1- THE TRUE COPY OF THE REPLY DATED 28.4.2014 GIVEN BY THE 3RD RESPONDENT AS PER RIGHT TO INFORMATION ACT.
- P2- THE TRUE COPY OF THE REPORT DATED 13.6.2014 HEALTH INSPECTOR OF THE PUBLIC HEALTH CENTRE, KAIPAMANGALAM.
- P3- THE TRUE COPY OF THE ORDER DATED 23.9.2014 ON THE FILES OF HON'BLE OMBUDSMAN FOR LOCAL SELF GOVT. INSTITUTIONS IN KERALA.
- P4- THE TRUE COPY OF THE ORDER DATED 23.10.2014 ISSUED BY THE 3RD RESPONDENT.
- P5- THE TRUE COPY OF THE REPLY DATED 6.5.2015 ISSUED BY THE 3RD RESPONDENT UNDER RIGHT INFORMATION ACT.
- P6- THE RECEIPT ISSUED FROM THE OFFICE OF THE 1ST RESPONDENT.
- P7- THE TRUE COPY OF THE RECEIPT ISSUED BY THE DISTRICT INDUSTRIES CENTRE.
- P8- THE TRUE COPY OF THE COMPLAINT DATED 25.5.2015 SUBMITTED BY THE 1ST PETITIONER BEFORE THE HONOURABLE OMBUDSMAN FOR LOCAL SELF GOVT. INSTITUTIONS IN KERALA.
- P9 - TRUE COPY OF THE POSTAL RECEIPT.
- P10- THE TRUE COPY OF THE COMPLAINT DATED 6.6.2015 IN THE APPROPRIATE FROM SUBMITTED BEFORE THE HON'BLE OMBUDSMAN FOR LOCAL SELF GOVT. INSTITUTIONS IN KERAL.
- P11- THE TRUE COPY OF THE POSTAL RECEIPT PETITION TO ACCEPT THE DOCUMENTS.

RESPONDENTS' EXHIBITS: **NIL.**

//TRUE COPY//

P.S. TO JUDGE

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A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.16566 of 2015

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Dated this the 17th day of June, 2015

JUDGMENT

Alleging that the 3rd respondent shall issue licence to the 4th respondent before any decision is being taken by the learned Ombudsman for Local Self Government Institutions on Ext.P8 complaint submitted by the petitioners, the petitioners have come up before this Court.

2. The petitioners are neighbours. All the residential buildings, including that of the petitioners, are situated in same survey number. There is a Temple situated where daily poojas are being conducted. The 4th respondent purchased a building having two rooms in the property. At the time of purchase, the petitioners were given to understand that it is for residential purpose and the 4th respondent would make some modifications

to make it suitable for residential purpose. However, after the purchase, instead of using that building for residential purpose, the 4th respondent has decided to start a carpentry unit styled as “Devasilpi Wood Works”. The 4th respondent decided to carry out the carpentry work using the machinery having the capacity of 5 HP and more.

3. The 3rd respondent took a decision in the panchayat committee on 27.1.2014 to issue licence to the 4th respondent. The apprehension of the residents in the locality is that carpentry work using high horse power motors would cause serious health problems to the respondents. When the petitioners came to know about the issue of licence to the 4th respondent, they made complaints to the 3rd respondent and also to the Health Inspector, who filed Ext.P2 report. As per the report it is stated that this would cause sound and air pollutions and that the location of this carpentry unit must be shifted. It is also reported that the 4th

respondent has neither obtained sanitary certificate from the Health Department nor submitted an application for that.

4. Neglecting this report, the 3rd respondent renewed the licence on 3.7.2014 for the period 2014-15. Against that, the 1st petitioner filed a complaint before the learned Ombudsman as O.P No.1124 of 2014 which passed Ext.P3 order dated 23.9.2014 directing the panchayat committee to reconsider the decision to issue licence to the 4th respondent on the basis of the report of the Health Inspector. It is also directed that the decision shall be taken within a period of 6 months on receipt of the copy of the order. It was further directed that till then, there is a stay of operation of 10 HP motor in the carpentry unit. The petitioners allege that in spite of Ext.P4 order dated 23.10.2014 directing the 4th respondent to stop the operations by using 10 HP motors, the 3rd respondent has not taken any steps to reconsider the matter.

5. On 10.4.2015, the 1st petitioner filed an application under the RTI Act to know the details from the 3rd respondent who gave Ext.P5 reply wherein it was stated that the panchayat committee held on 29.4.2015, has decided to give licence to the 4th respondent to do carpentry work using 5HP motor. The learned Ombudsman as per Ext.P3 directed the 3rd respondent to reconsider the matter within a period of 6 months and till then the operation of 10 HP motor is stayed.

6. Now the 3rd respondent took the decision to issue licence to do carpentry work by using 5 HP motor. The petitioners came to know that the 3rd respondent is going to take speedy measures to issue licence to the 4th respondent. Immediately, the 1st petitioner submitted Ext.P8 complaint before the learned Ombudsman against the decision taken by the committee on 29.4.2015. However, the 4th respondent's unit has obtained electricity connection. Therefore, according to the petitioners,

there is every possibility to start the carpentry work by the 4th respondent as and when he obtains the licence from the 3rd respondent. It is with this background, the petitioners have come up before this Court.

7. Arguments have been heard.

8. Today when the matter came up for hearing, the learned counsel for the petitioners submit that as Ext.P8 complaint was not in order, the petitioners have submitted another complaint, the copy of which is produced and marked as Ext.P10, before the learned Ombudsman and the petitioners are satisfied if a direction is given to the learned Ombudsman to consider and pass appropriate orders on Ext.P10.

Therefore, the writ petition is disposed of expressing the hope that the learned Ombudsman for Local Self Government Institutions shall dispose of Ext.P10 in accordance with law, after affording the petitioners and affected parties an opportunity of

being heard at the earliest.

Till that exercise is completed, the issuance of licence by the 3rd respondent to the 4th respondent shall be kept in abeyance.

Sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

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