

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

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

WP(C).No. 17383 of 2014 (W)

PETITIONER(S) :

**BIJU V.D,
AKSHAYA ENTREPRENEUR, EK 467, AKSHAYA CENTRE,
PUTHANVELIKKARA P.O., ERNAKULAM DISTRICT,
RESIDING AT VARANATTU HOUSE
NORTH ADUVASSERY, KUNNUKARA.**

BY ADV. SRI.P.K.ABOOBACKER(EDAPPALLY)

RESPONDENT(S) :

- 1. THE DIRECTOR,
INFORMATION TECHNOLOGY MISSION, VELLAYAMBALAM,
TRIVANDRUM, PIN- 695 033.**
- 2. THE DISTRICT COLLECTOR & CHAIRMAN,
AKSHAYA KENDRA, CIVIL LANES, KAKKANAD,
ERNAKULAM DISTRICT, PIN- 682 030.**
- 3. THE PLANNING OFFICER & DISTRICT CO-ORDINATOR OF
AKSHAYA KENDRA, CIVIL LANES, KAKKANAD,
ERNAKULAM DISTRICT, PIN- 682 030.**
- 4. THE ASSISTANT DISTRICT CO-ORDINATOR OF AKSHAYA KENDRA,
CIVIL LANES, KAKKANAD, ERNAKULAM DISTRICT, PIN- 682 030.**
- 5. PUTHENVELIKKARA GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
PUTHENVELIKKARA, PIN- 683 594, ERNAKULAM DISTRICT.**
- 6. BINOY K.R.,
S/O.RAJENDRAN, KATHANAPARAMBIL HOUSE,
PUTHEANVELIKKARA P.O, ERNAKULAM DISTRICT.**

**R1 TO R4 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR
R6 BY ADV. SRI.P.K.SAJEEV**

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

APPENDIX

PETITIONER(S)' EXHIBITS :

- EXHIBIT P1: THE TRUE PHOTO COPY OF THE AGREEMENT DATED 06-04-2009 ENTERED INTO BETWEEN THE PETITIONER AND THE 6TH RESPONDENT.**
- EXHIBIT P2: THE TRUE PHOTO COPY OF THE POWER OF ATTORNEY DATED 08-08-2009 EXECUTED BY THE 6TH RESPONDENT IN FAVOUR OF THE PETITIONER.**
- EXHIBIT P3: THE CERTIFICATE DATED 30-06-2009 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER TO AVAIL BSNL BOARD BAND CONNECTION.**
- EXHIBIT P4: THE TRUE PHOTO COPY OF THE MINUTES DATED 16-08-2013 OF THE PUTHENVELIKKARA PANCHAYATH COMMITTEE.**
- EXHIBIT P5: THE TRUE PHOTO COPY OF THE LETTER DATED 04-09-2013 ISSUED BY THE 4TH RESPONDENT TO THE PANCHAYATH.**
- EXHIBIT P6: THE TRUE OF THE DECISION DATED 30-10-2013 OF THE PUTHENVELIKKARA PANCHAYATH COMMITTEE.**
- EXHIBIT P7: THE TRUE OF THE PETITION DATED 14-12-2013 FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**
- EXHIBIT P8: THE TRUE COPY OF THE INSPECTION REPORT DATED 18-12-2013 BY THE 4TH RESPONDENT.**
- EXHIBIT P9: THE TRUE COPY OF THE CERTIFICATE DATED 19-12-2013 ISSUED BY THE EX DISTRICT GRAMA PANCHAYATH PRESIDENT AND THE PRESENT PRESIDENT OF PUTHENVELIKKARA PANCHAYATH TO THE PETITIONER.**
- EXHIBIT P10: THE TRUE OF THE CERTIFICATE DATED 21-12-2013 ISSUED BY THE VILLAGE OFFICER, PUTHENVELIKKARA VILLAGE TO THE PETITIONER.**
- EXHIBIT P11: THE TRUE PHOTO COPY OF THE REPRESENTATION DATED 22-12-2013 FILED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.**
- EXHIBIT P12: THE TRUE PHOTO COPY OF THE APPLICATION DATED 26-12-2013 FILED BY THE PETITIONER BEFORE THE 4TH RESPONDENT.**
- EXHIBIT P13: THE TRUE PHOTO COPY OF THE REPLY DATED 20-01-2014 GIVEN BY THE 4TH RESPONDENT TO THE PETITIONER.**
- EXHIBIT P14: THE TRUE PHOTO COPY OF THE AGREEMENT DATED 30-08-2013 HANDED OVER BY THE PETITIONER TO THE 4TH RESPONDENT.**

**EXHIBIT P15: THE TRUE PHOTO COPY OF THE REPRESENTATION
DATED 04-01-2014 FILED BY THE PETITIONER BEFORE
THE RESPONDENTS 1 TO 3.**

**EXHIBIT P16: THE TRUE PHOTO COPY OF THE REMINDER LETTER
DATED 18-02-2014 FILED BY THE PETITIONER BEFORE
THE 2ND RESPONDENT.**

**EXHIBIT P17: THE TRUE PHOTO COPY OF THE REPRESENTATION
DATED 19-02-2014 FILED BY THE PETITIONER BEFORE
THE RESPONDENTS 1 TO 3.**

**EXHIBIT P18: THE TRUE PHOTO COPY OF THE APPLICATION DATED 22-05-2014
FILED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.**

**EXHIBIT P19: THE TRUE PHOTO COPY OF THE REPLY DATED 25-06-2014 GIVEN
BY THE DEPUTY DISTRICT PLANNING OFFICER ON BEHALF OF
THE 2ND RESPONDENT TO THE PETITIONER.**

**EXHIBIT P20: THE TRUE PHOTO COPY OF THE COMMUNICATION
DATED 21.02.2014 BETWEEN THE 4TH RESPONDENT AND
THE UNDER SECRETARY, SUTHARYA KERALAM, TRIVNDRUM.**

RESPONDENT(S)' EXHIBITS :

**EXHIBIT R3(A): TRUE COPY OF THE REPORT OF THE DISTRICT
COLLECTOR.**

**EXHIBIT R3(B): TRUE COPY OF THE PROCEEDINGS OF THE DIRECTOR,
STATE AKSHAYA PROJECT.**

EXHIBIT R3(C): TRUE COPY OF THE RESOLUTION DATED 16.08.2014.

EXHIBIT R3(D): TRUE COPY OF THE RESOLUTION DATED 16.08.2014.

EXHIBIT R3(E): TRUE COPY OF THE RESOLUTION NO.1 DATED 02.01.2014.

EXHIBIT R3(F): TRUE COPY OF THE LETTER DATED 10.02.2014.

**EXHIBIT R4(A): A TRUE PHOTOCOPY OF THE G.O(RT)NO.171/13/ITD
DATED 20.07.2014.**

**EXHIBIT R6(A): TRUE COPY OF THE LETTER NO.A6-3619/2013
DATED 26.08.2013 GIVEN BY THE SECRETARY OF
THE 5TH RESPONDENT TO THE 4TH RESPONDENT.**

**EXHIBIT R6(B): TRUE COPY OF THE ORDER NO.49/2013/AKS
DATED 20.05.2013 PASSED BY THE 2ND RESPONDENT.**

- EXHIBIT R6(C): TRUE COPY OF THE REPRESENTATION DATED 03.09.2013
GIVEN BY THE 6TH RESPONDENT TO
THE 4TH RESPONDENT.**
- EXHIBIT R6(D): TRUE COPY OF THE LETTER NO.60/2013/AKS/EKM
DATED 09.12.2013 ISSUED BY THE 2ND RESPONDENT TO
THE 6TH RESPONDENT.**
- EXHIBIT R6(E): TRUE COPY OF THE LETTER NO.A2-3983/13 DATED NIL
GIVEN BY THE 5TH RESPONDENT TO
THE 4TH RESPONDENT.**
- EXHIBIT R6(F): TRUE COPY OF THE LETTER NO.EK.467/2014/AKS/EKM
DATED 10.02.2014 GIVEN BY THE 2ND RESPONDENT TO
THE PETITIONER.**
- EXHIBIT R6(G): TRUE COPY OF THE AGREEMENT DATED 20.02.2014
EXECUTED BETWEEN THE 2ND RESPONDENT AND
THE 6TH RESPONDENT.**
- EXHIBIT R6(H): TRUE COPY OF THE CERTIFICATE NO.51/2013/AKS/EKM
DATED 21.02.2014 ISSUED BY THE 4TH RESPONDENT.**
- EXHIBIT R6(I): TRUE COPY OF THE NOTICE OF REVOCATION OF POWER
OF ATTORNEY DATED 04.04.2014 EXECUTED BY
THE 6TH RESPONDENT.**

//TRUE COPY//

P.A.TO JUDGE.

Msd.

A.M. SHAFFIQUE, J.

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W.P. (C) No. 17383 of 2014

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Dated this, the 26th day of October, 2015

J U D G M E N T

Petitioner claims to have been operating an Akshaya Centre which was allotted in the name of the 6th respondent in terms of Ext.P1 agreement. The 6th respondent had also executed a Power of Attorney in favour of the petitioner. According to the petitioner, he had been operating the Akshaya Centre, since 2009. However, without any notice or complying with any formality, his right to conduct the Akshaya Centre was cancelled and allotment was given in favour of the 6th respondent.

2. Reference to the averments in the writ petition would clearly indicate that the petitioner's right to conduct the Akshaya Centre was only based on an agreement with the 6th respondent and the Power of Attorney executed by him. It is stated that petitioner had invested huge amounts for running the Akshaya Centre and much amounts are due to the petitioner from the Government. However, now the petitioner had been thrown out from the said Akshaya Centre and he contends that he has

suffered huge loss.

3. Learned counsel appearing for the 6th respondent submits that notice had been issued to the petitioner as Ext.R6(f) and it is after complying with the procedure prescribed that the cancellation order had been issued. Thereafter, the Akshaya Centre is allotted to the 6th respondent.

4. Facts being so, I do not think that this Court will be justified in entertaining this writ petition. If the petitioner has a case that there is violation of the terms of Ext.P1 agreement and that he had suffered damages, his remedy is to approach the Civil Court claiming compensation/damages and such issues cannot be adjudicated by this Court in a petition filed under Article 226 of the Constitution of India.

Reserving the right of the petitioner to approach the Civil Court for appropriate reliefs, this writ petition is dismissed.

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp
27/10/2015

//True Copy//

P.S to Judge