

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 13TH DAY OF NOVEMBER 2015/22ND KARTHIKA, 1937

WP(C).No. 17617 of 2015 (B)

PETITIONER(S):

MARIYAN DIVYA KARUNYA SNEHASRAMAM,
REPRESENTED BY ITS DIRECTOR THOMAS THEKKUMKKATIL,
KUMMANNOOR P.O., KIDAGANNOOR, KOTTAYAM.

BY ADVS.SRI.V.N.GOPALAKRISHNAN NAIR,
SRI.A.CHANDRA BABU,
SRI.ARUN GOPALAKRISHNAN,
SRI.G.VARUN.

RESPONDENTS:-

1. THE SECRETARY,
SOCIAL JUSTICE (C) DEPARTMENT,
THIRUVANANTHAPURAM - 695 001.
2. REGISTRAR,
KERALA STATE HUMAN RIGHTS COMMISSION,
VIKAS BHAVAN P.O., THIRUVANANTHAPURAM - 695 001.
3. THE MEMBER SECRETARY,
ORPHANAGE CONTROL BOARD, VIKAS BHAVAN,
THIRUVANANTHAPURAM - 695 001.
4. THE CHIEF INVESTIGATION OFFICER,
KERALA STATE HUMAN RIGHTS COMMISSION,
THIRUVANANTHAPURAM - 695 001.

* ADDL. R5 IMPEADED

5. SHAJI, MAVELITHADATHIL,
KUMMANNOOR P.O., KIDANGOOR, KOTTAYAM.

* ADDL. R5 IS IMPEADED AS PER ORDER DATED 15/06/2015 IN
I.A. NO.8043/2015.

R1 TO R4 BY GOVT. PLEADER SRI.MANOJ KUNJACHAN.
ADDL. R5 BY ADVS. SRI.S.RAJEEV,
SRI.K.K.DHEERENDRAKRISHNAN,
SRI.V.VINAY.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 13-11-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- EXHIBIT P1. TRUE COPY OF THE DEED DATED 30.03.2001.
- EXHIBIT P2. TRUE COPY OF THE CERTIFICATE OF REGISTRATION FROM THE 3RD RESPONDENT ON 15.04.2004 FOR A PERIOD OF 7 YEARS.
- EXHIBIT P3. TRUE COPY OF THE CERTIFICATE OF REGISTRATION FROM 3RD RESPONDENT ON 01.04.2011 FOR A FURTHER PERIOD OF FOUR YEARS.
- EXHIBIT P4. TRUE COPY OF THE PETITION DATED 25.11.2014 FILED BY THE SAID SHAJI JOSEPH BEFORE THE CHIEF MINISTER OF KERALA.
- EXHIBIT P5. TRUE COPY OF THE ORDER DATED 03.06.2015 CANCELLING THE RECOGNITION OF THE ASHRAMAM ISSUED BY THE 3RD RESPONDENT.
- EXHIBIT P6. TRUE COPY OF THE ORDER DATED 25.05.2015 ISSUED BY THE 1ST RESPONDENT.
- EXHIBIT P7. TRUE COPY OF THE PROCEEDINGS DATED 09.04.2014 ISSUED BY THE 2ND RESPONDENT.
- EXHIBIT P8. TRUE COPY OF THE INTERIM INVESTIGATION REPORT DATED 28/08/2014 ISSUED BY 4TH RESPONDENT.

RESPONDENT'S EXHIBITS:- NIL.

//TRUE COPY//

P.S. TO JUDGE

rs.

A. MUHAMED MUSTAQUE, J

W.P.(C).No. 17617 of 2015

Dated this the 13th day of November, 2015

JUDGMENT

The petitioner has approached this Court aggrieved by Ext.P5 Order of Chairman of Orphanage Control Board (hereinafter referred as 'Board'). By Ext.P5 Order, the registration granted the petitioner under Orphanage and Other Charitable Homes (Supervision and Control) Act 1960, has been cancelled. This has been issued based on the directions of the Government. The Government issued the directions based on the recommendation of Human Rights Commission.

2. This Court is of the view that Ext.P5 is unsustainable. In the order itself, the Authority has stated that they are not going into the merits of this case. The Statutory Authority constituted under law and granted registration necessarily, can cancel the registration only for any violation to the satisfaction of the Statutory Authority.

Any recommendation of Human Rights Commission or Government can be only taken as piece of evidence to find out whether there is any violation. Therefore impugned order is set aside.

3. The Board shall re-consider the matter afresh after issuing notice to the petitioner and consider the directions of the State for cancellation in accordance with the relevant provisions applicable. It is made clear that if the petitioner has not violated any of the statutory provisions, merely on the directions of the Government or Human Rights Commission, the Board cannot cancel the registration. Till the decision is taken afresh interim order passed by this Court will continue. Before taking final decision, the petitioner as well as party respondents shall be heard. Needful shall be done within a period of three months.

The writ petition is disposed of as above.

Sd/-
A. MUHAMED MUSTAQUE
JUDGE