

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

WP(C).No. 18091 of 2015 (S)

PETITIONER:

**ANTI CORRUPTION MOVEMENT KERALA,
A SOCIETY REGISTERED UNDER SOCIEITES
REGISTRATION ACT, 1860 HAVING ITS OFFICE AT
GROUND FLOOR, THANKAM BUILDING,
WEST YAKKARA, PALAKKAD 678 001,
REPRESENTED BY ITS GENERAL SECRETARY
V.S.SHANAVAS, AGED 39 YEARS,
S/O. LATE V.S.SULAIMAN, SHAH MANZHIL, AMAKULAM,
VADAKKENCHERRY P.O, PALAKKAD DISTRICT - 678 683.**

**BY ADVS.SRI.P.A.MOHAMMED SHAH
SRI.SOORAJ T.ELENJICKAL
SMT.P.M.MAZNA MANSOOR**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY PRINCIPAL SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM - 695001.**
- 2. SECRETARY, LOCAL SELF GOVERNMENT DEPARTMENT,
(URBAN AFFAIRS), SECRETARIAT,
THIRUVANANTHAPURAM - 695001.**
- 3. DIRECTOR OF URBAN AFFARIS, SWARAJ BHAVAN,
NANTHANCODE, KOWDIAR (PO),
THIRUVANANTHAPURAM-695003.**
- 4. DIRECTOR VIGILENCE AND ANTI CORRUPTION
DEPARTMENT, VIKAS BHAVAN,
THIRUVANANTHAPURAM - 695001.**
- 5. DISTRICT COLLECTOR,
COLLECTORATE, PALAKKAD - 678 001.**

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6. MUNICIPALITY OF PALAKKAD,
REPRESENTED BY SECRETARY,
MUNICIPALITY OF PALAKKAD,
PALAKKAD - 678 001.
7. SECRETARY,
MUNICIPALITY OF PALAKKAD, PALAKKAD - 678 001.
8. JOINT DIRECTOR,
CENTRAL BUREAU OF INVESTIGATION , CHENNAI ZONE,
III RD FLOOR, E.V.K, SMAPATH BUILDING,
COLLEGE ROAD, CHENNAI - 600 006.

R1 TO R5 BY SENIOR GOVT. PLEADER SRI.P.J.DAVIS
R6-R7 BY ADVS. SRI.T.C.SURESH MENON
SRI.P.S.APPU
R8 BY SRI.P.CHANDRASEKHARA PILLAI, SC, C.B.I.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 23-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

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APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1: THE TRUE COPY OF THE CERTIFICATE OF REGISTRATION ISSUED BY DISTRICT REGISTRAR, PALAKKAD DURING THE YEAR 2011 ALONG WITH ENGLISH TRANSLATION.**
- EXT.P2: THE TRUE COPY OF THE MEMORANDUM OF THE SOCIETY DATED NIL.**
- EXT.P3: THE TRUE COPY OF THE SINGED LIST OF OFFICE BEARERS DATED NIL.**
- EXT.P4: THE TRUE COPY OF THE COMMUNICATION ISSUED BY THE 4TH RESPONDENT DATED 2.1.1987.**
- EXT.P5: THE TRUE COPY OF THE NOTIFICATION NUMBERED AS GO(MS) NO.17/88/LAD DATED 30.1.1988.**
- EXT.P6: THE TRUE COPY OF THE RESOLUTION SUBMITTED ON 14.1.1993 ALONG WITH ENGLISH TRANSLATION.**
- EXT.P7: THE TURE COPY OF THE DECISION OF MUNICIPAL COUNCIL NUMBERED AS 858 DATED 22.1.1993 ALONG WITH ENGLISH TRANSLATION ALONG.**
- EXT.P8: THE TRUE COPY OF THE APPROVAL GRANTED BY THE MUNICIPAL ENGINEER DATED 4.11.2004 ALONG WITH ENGLISH TRANSLATION.**
- EXT.P9: TRUE OF THE REJECTION ORDER ISSUED BY TOWN PLANNING OFFICER, PALAKKAD DATED 29.10.2004 ALONG WITH ENGLISH TRANSLATION.**
- EXT.P10: THE TRUE COPY OF THE RESOLUTION DATED 4.6.2007 ALONG WITH ENGLISH TRANSLATION.**
- EXT.P11: THE TRUE COPY OF THE DECISION OF PALAKKAD MUNICIPAL COUNCIL NUMBERED AS 1980 DATED 9.8.2007 ALONG WITH ENGLISH TRANSLATION.**
- EXT.P12: THE TRUE COPYOF THE FEASIBILITY CERTIFICATE ISSUED BY THE MUNICIPAL COUNCIL ALONG WITH ENGLISH TRANSLATION.**
- EXT.P13: THE TRUE COPY OF THE DECISION NUMBERED AS 2455 DATED 4.2.2008 ALONG WITH ENGLISH TRANSLATION.**
- EXT.P14: THE TRUE COPY OF THE LETTER ISSUED BY T HE 7TH RESPONDENT TO THE 1ST RESPONDENT DATED 7.2.2008 ALONG WITH ENGLISH TRANSLATION.**
- EXT.P15: THE TRUE COPYOF TRHE NOTIFICATION NUMBER AS E 577/2008 DATED 14.7.2008 ALONG WITH ENGLISH TRANSLATION.**

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- EXT.P16: THE TRUE COPY OF THE COMMUNICATION ISSUED BY THE REGIONAL JOINT DIRECTOR, KOZHIKODE DATED 11.8.2008 ALONG WITH ENGLISH TRANSLATION.
- EXT.P17: THE TRUE COPY OF THE LETTER ISSUED BY THE 5TH RESPONDENT TO THE PETITIONER DATED 7.3.2012 ALONG WITH ENGLISH TRANSLATION.
- EXT.P18: THE TRUE COPY OF THE COMPLAINT FILED BEFORE THE PRIME MINISTER.
- EXT.P19: THE TRUE COPY OF THE LETTER ISSUED BY THE ADDITIONAL CHIEF SECRETARY DATED 2.4.2012.
- EXT.P20: THE TRUE COPY OF THE INFORMATION ISSUED BY PUBLIC INFORMATION OFFICER, VIGILANCE & ANTICORRRUPTION BUREAU DATED 15.6.2012 ALONG WITH ENGLISH TRANSLATION
- EXT. P21: THE TRUE COPY OF THE INFORMATION ISSUED BY STATE INFORMATION OFFICER, VIGILANCE & ANTICORRRUPTION BUREAU DATED 23.7.2012 ALONG WITH ENGLISH TRANSLATION.
- EXT.P22: THE TRUE COPY OF THE NEWS PUBLISHED IN THE HINDU DAILY DATED 30.3.2006.
- EXT.P23: THE TRUE COPY OF THE NEWS PUBLISHED IN THE HINDU DAILY DATED 27.3.2008.
- EXT.P24: THE TRUE COPY OF THE NEWS PUBLISHED IN THE HINDU DAILY DATED 26.3.2010.
- EXT.P25: THE TRUE COPY OF THE NEWS PUBLISHED IN THE HINDU DAILY DATED 12.3.2014.
- EXT.P26: THE TRUE COPY OF THE NEWS PUBLISHED IN THE TIMES OF INDIA DATED 26.3.2006.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.P.C.No.18091 of 2015

Dated this the 23rd day of September 2015

J U D G M E N T

Shaffique, J

This writ petition is filed in the form of a public interest litigation seeking for the following reliefs:

“i) To issue direction, order or writ of mandamus directing the 8th respondent to conduct a thorough investigation on the corruption of Manjakkulam Transport Stand and to initiate appropriate legal action against the culprits who are behind, and also responsible for non-implementation of Exhibit P-5 scheme.

ii) To issue a direction to the 1st, 2nd and 3rd respondents to implement Exhibit P-5 scheme invoking the authority under section 61 of Kerala Municipality Act, 1994.

iii) To direct the 3rd respondent to conduct enquiry/investigation consequent to Exhibit P-19 communication.”

2. Petitioner, claiming to be a public spirited organisation, has approached this Court stating that a notification in the form of

Ext.P5 has been published for developing a big bazar area at Palakkad. Despite publication of the said scheme, neither any action has been taken by the Municipality to acquire land nor have they taken any further steps for implementing the scheme. Petitioner further submits that though certain land has been earmarked by the Municipal Council, still no action has been taken for implementing the project. Reference has also been made to the resolution dated 04/06/2007, produced as Ext.P10. According to the petitioner, the Municipal Council, by not implementing the scheme, is protecting the interest of the real estate mafia and that large scale corruption has taken place in the matter which requires a proper enquiry.

3. The learned counsel for the petitioner also relied upon Section 52 of the Municipalities Act to indicate that the funds necessary for implementing the project has already been transferred by the Government and therefore by not implementing the project, it amounts to misappropriation of the funds which requires an enquiry at the instance of this Court.

4. Statement has been filed on behalf of respondents 6 and 7 inter alia stating that as early as in 1992, Municipality has taken a decision to take over 2.2 acres of land to construct a lorry

stand. But, further action could not be taken for lack of funds and on account of various writ petitions filed before this Court. The Municipality had approached the State and various financial institutions for financial assistance for the construction of the lorry stand. But since nothing materialised, finally the project had to be shelved due to financial constraints.

5. Reply statement has been filed by the petitioner controverting the allegations raised in the statement filed by the Municipality. It is pointed out that in terms of Section 51(3) of the Kerala Municipality Act, Municipal Council is entrusted with the power to prepare a detailed Town Planning Scheme and pursuant to that when the scheme is prepared, they cannot escape from their responsibility of implementing the said scheme and it is their statutory obligation to implement the scheme.

6. Having heard the learned counsel for the petitioner and the learned counsel appearing for the Municipality as well as the learned Government Pleader, we do not think that this case requires adjudication on merits. As far as the claim of the petitioner is concerned, they require an investigation on the corruption of Manjakkulam Transport Stand which is the project to be implemented in terms of Ext.P5. Admittedly, the scheme has

not been implemented and there is no material to show that funds have been utilised for the said scheme. Hence we do not think that an investigation into the alleged corruption is required to be initiated at the instance of this Court.

7. The other relief sought for is to implement Ext.P5 scheme. Even according to the Municipality, they are unable to implement the scheme on account of several factors. Under these circumstances, we do not think it is possible for this Court to issue any direction, as prayed for.

In the result, we do not find any reason why this writ petition should be considered as a public interest litigation and accordingly the same is dismissed.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr/23/09/15

