

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

THURSDAY, THE 9TH DAY OF JULY 2015/18TH ASHADHA, 1937

WP(C).No. 18360 of 2015 (T)

PETITIONER(S):

**A.P.MOHAMMED,
RAJEENA MANZIL, POTTAKKUZHI ROAD, KOCHI,
PIN - 682 017.**

BY ADV. SRI.L.RAJESH NARAYAN

RESPONDENT(S):

- 1. THE KOCHI CORPORATION,
REPRESENTED BY ITS SECRETARY, ERNAKULAM, PIN - 682011.**
- 2. THE SECRETARY,
KOCHI CORPORATION, ERNAKULAM, PIN - 682 011.**
- 3. ANTONY,
BUNK OWNER, VIVEKANANTHA ROAD,
ERNAKULAM SOUTH JUNCTION, PIN - 682 016.**
- 4. SIVAN,
BUNK OWNER, VIVEKANANTHA ROAD,
ERNAKULAM SOUTH JUNCTION, PIN - 682 016.**
- 5. SAJU,
BUNK OWNER, VIVEKANANTHA ROAD,
ERNAKULAM SOUTH JUNCTION, PIN - 682 016.**
- 6. MANI,
BUNK OWNER, VIVEKANANTHA ROAD,
ERNAKULAM SOUTH JUNCTION, PIN - 682 016.**
- 7. BASHEER,
BUNK OWNER, VIVEKANANTHA ROAD,
ERNAKULAM SOUTH JUNCTION, PIN - 682 016.**
- 8. SATHAR,
BUNK OWNER, VIVEKANANTHA ROAD,
ERNAKULAM SOUTH JUNCTION, PIN - 682 016.**

**R1-R2 BY ADVS. SRI.K.ANAND, SC
SRI.P.K.SOYUZ, SC**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
09-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

WP(C).No. 18360 of 2015 (T)

APPENDIX

PETITIONER(S)' EXHIBITS

P1 - TRUE COPY OF THE REPRESENTATION DATED 21.5.2014 SUBMITTED BY THE PETITIONER BEFORE THE 2ND RESPONDENT.

P2 TRUE COPY OF THE JUDGMENT DATED 24.7.2014 OF THIS HON'BLE COURT IN WRIT PETITION © NO.19064/2014

P3 - TRUE COPY OF THE LAWYER'S NOTICE DATED 13.1.2015 ISSUED BY THE COUNSEL FOR THE PETITIONER TO THE 2ND RESPONDENT.

P4 - TRUE COPY OF THE NOTICE DATED 5.2.2015 ISSUED BY THE HEALTH OFFICER OF THE FIRST RESPONDENT TO THE COUNSEL FOR THE PETITIONER.

P5 - TRUE COPY OF THE ORDER NO.MOH14/023321/14 DATED 26.12.2014 ISSUED BY THE 2ND RESPONDENT.

P6 - TRUE COPY OF THE APPLICATION DATED 11.2.2015 SUBMITTED BY ONE D.GANGADHARA MENON UNDER RIGHT TO INFORMATION ACT.

P7 - TRUE COPY OF THE REPLY DATED 11.3.2015 GIVEN BY THE PUBLIC INFORMATION OFFICER AND REVENUE OFFICER OF THE FIRST RESPONDENT TO D.GANGADHARA MENON.

P8 - TRUE COPY OF THE ELECTORAL IDENTITY CARD ISSUED BY THE ELECTION COMMISSION OF INDIA TO THE PETITIONER.

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.S.TO JUDGE

Msv/

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No. 18360 of 2015

Dated this the 9th day of July, 2015.

JUDGMENT

The petitioner is seeking a direction to the respondent Corporation to remove the authorised bunks put up by respondents 3 to 8 on the eastern side of the Vivekananda Road in front of the Ernakulam South Railway Station.

2. The petitioner alleges that there is heavy traffic, vehicular as well as pedestrian in and around the Ernakulam South Railway Station. On account of the existence of the unauthorised bunks, people are hesitant to use the Vivekananda Road for the purpose of computation. The petitioner himself wanted to use Vivekananda Road on many occasions but on account of the existence of the 6 unauthorised bunks, he had to choose another road namely Kalathiparambil road. The petitioner further alleges that he submitted Ext.P1 representation before the respondent Corporation. As no action was forthcoming, he approached

this Court by filing W.P.(C) No.19064 of 2014. This Court by Ext.P2 judgment directed the second respondent to consider Ext.P1 petition after affording the petitioner and the affected parties an opportunity of being heard within two months. Thereafter, on instructions through mobile, the petitioner's counsel appeared before the second respondent on 26.9.2014 and the second respondent told the counsel for the petitioner that a fresh hearing date would be given. Thereafter, nothing was heard from the office of the second respondent. Under such circumstances, the petitioner issued Ext.P3 lawyer notice to the second respondent. Later, the Health Officer of the first respondent sent Ext.P4 notice, enclosing a copy of Ext.P5 order said to have been passed by the second respondent, to the petitioner. Ext.P5 order was issued in violation of the principles of natural justice violation specific direction contained in Ext.P2 judgment of this court. It is with this background, the petitioner has come up before this Court.

3. I have heard the learned counsel for the petitioner

and the learned Standing Counsel for the respondent Corporation in the matter.

4. The learned counsel for the petitioner would submit that though Ext.P1 representation was submitted by the petitioner before the respondent Corporation, the petitioner was not heard.

5. The learned standing counsel for the respondent corporation per contra would submit that notice was issued to the petitioner for hearing. However, Ext.P5 reveals that though notice has been issued to the petitioner, it was returned as 'not known'. Therefore, the fact remains that the petitioner could not ventilate his grievance before the respondent corporation. Therefore, it is only just and proper to provide the petitioner a further opportunity to project his grievance before the respondent Corporation.

In the result, the impugned order (Ext.P5) is quashed. The respondent Corporation is directed to consider Ext.P1 application afresh, after affording the petitioner and

respondents 3 to 8 within a period of one month from the date of receipt of a copy of this judgment.

To facilitate an early action, it shall be open to the petitioner to produce a copy of the writ petition as well as the copy of this judgment before the respondent Corporation at the earliest.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.