

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WP(C).No. 19361 of 2015 (U)

PETITIONER:

**P.GOPINATHAN NAIR,
S/O.LATE PARAMESWARA PIALLI, C.G.BHAVAN,
VELLARADA DESOM, NEYYATTINKARA,
THIRUVANANTHPAURAM.**

BY ADV. SRI.K.B.PRADEEP

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.**
- 2. THE STATE POLICE COMPLAINTS AUTHORITY,
TAGORE NAGAR, VAZHUTHACAUD,
THIRUVANANATHAPURAM, PIN-695 014.**
- 3. THE SUB INSPECTOR OF POLICE,
VELLARADA POLICE STATION,
THIRUVANANATHAPURAM-695 001.**

BY GOVERNMENT PLEADER SRI.MANOJ KUNJACHAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 01-09-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

mbr/

WP(C).No. 19361 of 2015 (U)

APPENDIX

PETITIONER(S)' EXHIBITS:

- EXT.P1. TRUE COPY OF THE COMPLAINT DATED NIL.
- EXT.P2. TRUE COPY OF THE APPLICATION UNDER RTI ACT DATED 25/4/2015.
- EXT.P3. TRUE COPY OF THE REPLY DATED NIL TO EXT.P2.
- EXT.P4. TRUE COPY OF THE ORDER OF THE 2ND RESPONDENT
DATED 13/5/2015.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A. MUHAMED MUSTAQUE, J.

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W.P.(C) No. 19361 of 2015 (U)

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Dated this the 1st day of September, 2015

JUDGMENT

The petitioner, who is aggrieved by Ext.P4 order issued by the State Police Complaints Authority, has approached this Court.

2.The gist of the case is that, the petitioner was arrested by the 3rd respondent for some petty offences. Aggrieved by the same, the petitioner has made Ext.P1 complaint before the 2nd respondent. But, without affording an opportunity of hearing to the petitioner, the 2nd respondent passed Ext.P4 order and has dismissed Ext.P1 complaint, which is under challenge in this writ petition.

3.On instructions, the learned Government Pleader submits that the complaint has been dismissed after obtaining explanation from the police officer concerned.

4.The learned counsel for the petitioner submits that the complaint has been dismissed without hearing the petitioner and without affording an opportunity to the petitioner to contradict the explanations obtained from the 3rd respondent. It appears that no opportunity was given to the petitioner.

5. This Court is of the view that, when proceedings are initiated at the instance of the petitioner, necessarily the petitioner should be given an opportunity of being heard before the matter is finally decided.

6. In view of the above, this Court finds that, Ext.P4 is liable to be set aside. Accordingly, Ext.P4 is set aside and the 2nd respondent is directed to re-consider Ext.P1 complaint, after affording an opportunity of hearing to the petitioner and the 3rd respondent. The copy of the explanation furnished by the officer concerned shall also be served on the petitioner.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the 2nd respondent for further steps.

The writ petition is disposed of as above.

Sd/-
A. MUHAMED MUSTAQUE
JUDGE