

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT:**

**THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI**

**FRIDAY, THE 3RD DAY OF JULY 2015/12TH ASHADHA, 1937**

**WP(C).No. 20012 of 2015 (B)**  
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**PETITIONER(S):**  
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**USHAKUMARI, FRANCHISEE,  
MULAMOOTTIL LEASING AND HIRE PURCHASE LIMITED,  
ADUKKOLIL BUILDING, EDAYIRICKAPUZHA P.O.,  
KOTTAYAM DISTRICT, PIN - 686 541.**

**BY ADVS.SRI.P.RAMAKRISHNAN  
SRI.T.C.KRISHNA**

**RESPONDENT(S):**  
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- 1. THE ASSISTANT LABOUR OFFICER,  
CHANGANASSERY, KOTTAYAM-686 101.**
- 2. THE DISTRICT LABOUR OFFICER,  
(ENFORCEMENT), OFFICE OF THE DISTRICT LABOUR OFFICER,  
KOTTAYAM-686 001.**

**BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON  
03-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**msv/**

WP(C).No. 20012 of 2015 (B)  
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**APPENDIX**

**PETITIONER(S)' EXHIBITS**  
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EXHIBIT-P1: TRUE COPY OF DEED OF APPOINTMENT DATED 23/12/2014.

EXHIBIT-P2: TRUE COPY OF FRANCHISEE CERTIFICATE DATED 23/12/2014.

EXHIBIT-P3: TRUE COPY OF APPLICATION DATED NIL SUBMITTED BY THE  
PETITIONER.

EXHIBIT-P4: TRUE COPY OF COVERING LETTER DATED 29/12/2014 SUBMITTING  
EXHIBIT-P3 AND CONNECTED RECORDS.

EXHIBIT-P5: TRUE COPY OF ORDER DATED 25/2/2015 ISSUED BY THE  
1ST RESPONDENT.

EXHIBIT-P6: TRUE COPY OF LETTER DATED 2/2/2015 ISSUED BY THE  
2ND RESPONDENT TO THE 1ST RESPONDENT.

EXHIBIT-P7: TRUE COPY OF JUDGMENT DATED 9/10/2014 OF THIS HONOURABLE  
COURT IN W.P.(C) NO.19189/2014.

EXHIBIT-P8: TRUE COPY OF APPEAL DATED 6/3/2015 SUBMITTED BY THE  
PETITIONER BEFORE THE 2ND RESPONDENT.

EXHIBIT-P9: TRUE COPY OF ORDER DATED 5/6/2015 OF THE 2ND RESPONDENT.

**RESPONDENT(S)' EXHIBITS:**  
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NIL

//TRUE COPY//

P.S.TO JUDGE

Ms<sup>v</sup>/

**A.V. RAMAKRISHNA PILLAI, J.**

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W.P.(C) No. 20012 of 2015  
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Dated this the 3<sup>rd</sup> day of July, 2015.

**JUDGMENT**

Ext.P9 by which the second respondent has rejected the petitioner's appeal is under challenge.

2. The petitioner is the franchisee of Mulamoottil Leasing and Hire Purchase Limited. The petitioner alleges that by Ext.P1 agreement, she was granted permission to carry on the business at Edayirickapuzha in Kottayam District. Ext.P2 is the franchisee certificate. As per Section 5 A of the Kerala Shops and Commercial Establishments Act, 1960, an employer has to make an application for registration under the said Act. Petitioner submitted Ext.P3 application. However, the first respondent by Ext.P5, rejected the same against which Ext.P8 appeal was preferred before the second respondent. This Court in a similar matter, by Ext.P7 had considered the issue. However, without considering Ext.P7, the second respondent by Ext.P9 rejected the appeal. 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 Government Pleader in the matter.

4. The learned counsel for the petitioner would argue that as per Section 5 A of the Kerala Shops and Commercial Establishments Act, 1960, the employer of every establishment is required to make an application before the notified authorities for a registration certificate in respect of that establishment. Sub Section (3) of Section 5 A stipulates the particulars to be specified in the application. As per Section 5 A (3) (a), the name of the employer and the manager, if any, has to be specified. An employer is defined under Section 2(7) of the Act as follows:

“Employer means a person owning or having ultimate control of the affairs of an establishment and includes the manager, agent or other person acting in the general management or control of the establishment.”

Therefore, it is submitted by the learned counsel for the petitioner that a registration can be issued in the name of a

manager, agent or the person, who is in general management or control of the establishment. The petitioner is the franchisee and as such he has every right to get his establishment registered in his name. The learned counsel for the petitioner invited my attention to Ext.P7 judgment of this Court in support of his argument.

In the result, the writ petition is allowed. Exts. P5 and P9 are quashed. Respondents 1 and 2 are directed to issue the certificate of registration to the petitioner on the basis of Ext.P3 application within a period of two weeks from the date of receipt of a copy of this judgment.

**Sd/-**  
**A.V. RAMAKRISHNA PILLAI**  
**JUDGE**

Scl.