

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&**

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

WP(C).No. 20469 of 2015 (S)

PETITIONER(S):

- 1. THE WELFARE PARTY STATE BHOO SAMARA SAMITHY,
H.NO.41/2085, SRM ROAD, ERNAKULAM, KOCHI - 682 018,
REPRESENTED BY ITS GENERAL CONVENER
MR.JOHN AMBATTU.**
- 2. KHALID MUNDAPPILLY,
MUNDAPPILLY HOUSE, ALUVA - 683 101.**

BY ADV. SRI.T.R.RAJAN.

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DISTRICT COLLECTOR,
COLLECTORATE, ERNAKULAM - 682 030.**
- 3. THE DIRECTOR OF VIGILANCE,
THIRUVANANTHAPURAM - 695 001.**

BY SR. GOVT. PLEADER SRI.P.I DAVIS.

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

rs.

APPENDIX

PETITIONER'S EXHIBITS:-

- P1 - TRUE COPY OF THE ORDER DTD. 07.08.2014 ISSUED BY THE 1ST RESPONDENT AND ENGLISH TRANSLATION.
- P2 - TRUE COPY OF THE APPLICATION DTD. 07.11.2014 SUBMITTED BY THE 2ND PETITIONER BEFORE THE STATE PUBLIC INFORMATION OFFICER OF THE OFFICE OF THE 2ND RESPONDENT AND ENGLISH TRANSLATION.
- P3 - TRUE COPY OF THE REPLY DTD. 08.12.2014 GIVEN BY THE STATE PUBLIC INFORMATION OFFICER AND DEPUTY COLLECTOR (LR) TO THE 2ND PETITIONER AND ENGLISH TRANSLATION.
- P4 - TRUE COPY OF THE ORDER DTD. 10.02.2015 PASSED BY THE SECOND RESPONDENT IN THE APPEAL FILED BY THE SECOND PETITIONER AND ENGLISH TRANSLATION.
- P5 - TRUE COPY OF THE PETITION DTD. 19.06.2015 SUBMITTED BY THE 2ND PETITIONER BEFORE THE FIRST RESPONDENT.
- P6 - TRUE COPY OF THE PETITION DTD. 19.06.2015 SUBMITTED BY THE 2ND PETITIONER BEFORE THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:-

- EXT.R2A COPY OF THE AUDITORS REPORT IN RESPECT OF THE EXPENDITURE INCURRED FOR "BHOOMIGEETHAM" PROGRAMME.

//TRUE COPY//

P.S. TO JUDGE

rs.

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.P.C.No.20469 of 2015

Dated this the 8th day of October 2015

J U D G M E N T

Ashok Bhushan, CJ

Heard learned counsel for the petitioner and the learned Government Pleader.

2. This writ petition is filed as a public interest litigation alleging misutilisation of the funds collected from the public in the name of conduct of public function 'Bhoomigeetham' and non utilisation of the balance funds for distribution of land to the landless poor. Petitioner's case is that State Government has taken a decision on 07/08/2014 granting permission to conduct Bhoomigeetham, a programme which is organised to be conducted for collecting fund to the project for landless people in Kerala. A copy of the said Government Order has been annexed as Ext.P1. It is his case that in pursuance of the said Government Order, a programme was conducted at Marine Drive, Ernakulam on 31/08/2014. It is submitted that in the said programme, an amount of Rs.3,50,44,500/- has been received for this project. It is also submitted that huge amount collected has not been properly accounted for and the amount spent has been shown as

excessive.

3. Counter affidavit was called for, in response to which the 2nd respondent, District Collector has filed a counter affidavit giving the details of the amount collected and spent. The 2nd respondent has also filed a copy of the auditor's report as Ext.R2(a) giving details of various heads under which items were spent and the amount which is still at bank.

4. Learned counsel for the petitioner submits that from the audit report, it is clear that huge amount was given for construction of pandal and sponsor was not selected as contemplated by the Government Order. He submits that on his complaint Ext.P6, an enquiry was conducted and the 2nd petitioner was also called to appear.

5. The District Collector, in his counter affidavit, has also submitted that the amount which is left from the programme is to be utilised for the project for which this scheme has been initiated and the said amount has not been spent for any other purposes and will be utilised for the purpose the Government Order contemplates.

6. Petitioner, by means of this writ petition, is raising various factual issues regarding the expenses, as shown by the respondent, for the programme. This Court, in exercise of

jurisdiction, shall not entertain such issues nor adjudicate as to whether the amount shown as spent on behalf of the 2nd respondent was correct or not. All these issues are for the Government to look into and it is for the Government to issue necessary direction or guidelines, as required. We only observe that while implementing such scheme, such leverage has to be given to the officials who are conducting such scheme. It seems that they are not regulated by any statutory provision. The learned counsel for the petitioner submits that appropriate direction may be issued to the Government to consider the complaints and take a decision. We refrain from issuing any direction, as prayed for, giving liberty to the Government to take such action, as deem fit and proper.

With this observation, this writ petition is disposed of.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)
(sd/-)
(A.M.SHAFFIQUE, JUDGE)

True Copy

PA to Judge

jsr/08/10/2015

