

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE DAMA SESHADRI NAIDU

THURSDAY, THE 26TH DAY OF MARCH 2015/5TH CHAITHRA, 1937

WP(C).No. 20836 of 2014 (D)

PETITIONER:

THE SECRETARY, PANAVOOR GRAMA
PANCAHAYAT, PANAVOOR, NEDUMANGAD,
THIRUVANANTHAPURAM.

BY ADVS.SRI.LATHEESH SEBASTIAN
SRI.M.FATHAHUDEEN

RESPONDENTS:

1. PRINCIPAL SECRETARY TO GOVERNMENT,
LOCAL SELF GOVERNMENT DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM-695 001.
2. ANIRUDHAN, KOTTARA VEEDU, PANAVOOR P.O.,
NEDUMANGAD, THIRUVANANTHAPURAM-695 101.

R1 BY GOVERNMENT PLEADER SRI.G.GOPAKUMAR
R2 BY ADVS. SRI.THOMAS ABRAHAM
SMT.MERCIAMMA MATHEW
SRI.ASWIN.P.JOHN
SRI.T.S.PRASANNAKUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
26-03-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN WP(C).No. 20836 of 2014 (D)

PETITIONER'S EXHIBITS:

EXHIBIT P1- TRUE COPY OF THE O.PNO.1128/13 BEFORE THE OMBDUSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS.

EXHIBIT P2- TRUE COPY OF THE ORDER DATED 10-10-2013 OF OMBUDSMAN.

EXHIBIT P3- TRUE COPY OF THE EXTRACT OF THE DECISION OF THE PANCHAYAT COMMITTEE DATED 25-03-2014

EXHIBIT P4- TRUE COPY OF THE CMP N O.78/2014 IN EXT-P1.

EXHIBIT P5- TRUE COPY OF THE AFFIDAVIT SUBMITTED BEFORE THE LEARNED OMBUDSMAN.

EXHIBIT P6- TRUE COPY OF THE ORDER DATED 03-04-2014.

EXHIBIT P7- TRUE COPY OF THE LETTER NO.28460/DA2/14/LSGT DATED 26.05.2014.

RESPONDENT'S EXHIBITS:

EXT.R2(a) THE TRUE COPIES OF THE PHOTOGRAPHS OF THREE FAMILIES WHO ARE ALL STAYING IN THE SAID ROAD

/TRUE COPY/

P.S. TO JUDGE

Dama Seshadri Naidu, J.

W.P.(C)No.20836 of 2014 D

Dated this the 26th day of March, 2015

JUDGMENT

The petitioner, the Grama Panchayat, has filed the present writ petition assailing Exhibit P6 order passed by the learned Ombudsman and also Exhibit P7 consequential order passed by the first respondent.

2. The learned counsel for the petitioner has contended that though the petitioner Grama Panchayat has every intention to complete the road it has undertaken to lay, it could not do that owing to paucity of funds. According to him, it is impossible to adhere to the time frame fixed by the learned Ombudsman in Exhibit P2, later reiterated in Exhibit P6.

3. The learned counsel for the petitioner, having maintained the writ petition on various grounds, including lack of necessary authority on the part of the learned

Ombudsman to entertain complaints in the nature of Exhibits P1 and P4, has eventually submitted that the petitioner Grama Panchayat will complete the process of laying the road by next financial year. Based on an earlier direction given by this Court, the Secretary of the Grama Panchayat has also filed an affidavit to the said effect.

4. The learned counsel for the second respondent, at whose instance the learned Ombudsman has passed Exhibits P2 and P6, has submitted that those orders were not implemented by the petitioner Grama panchayat only owing to political pulls and pressures. At any rate, the first respondent has issued Exhibit P7 consequential order directing the petitioner Grama Panchayat to comply with the orders of the learned Ombudsman and report the same to the Government.

5. Heard the learned counsel for the petitioner, the learned Government Pleader for the first respondent and

the learned counsel for the second respondent, apart from perusing the record.

6. It is evident that based on the complaint filed by the second respondent, the learned Ombudsman in O.P.No. 1128/2013 passed Exhibit P2 order to the following effect:

“I direct the Panchayat positively include this work during the Financial Year at least 2014-15 and see that the work is completed in a time framed manner. The petitioner also would submit that the street lights are not burning I direct the President of the Panchayat to apply her mind and do the needful to solve the problem.”

Later, questioning the inaction of the petitioner Grama Panchayat, the second respondent is said to have filed C.M.P.No.78/2014 In O.P.No.1128/2013, which resulted in Exhibit P6 order. It reads as follows:

“My direction was to include the work of Chumadu thangi - Chencheri - Kattakkal road during the financial year 2014-15 positively. Now the Panchayat has prepared the estimate to start the work. But in order to wreck vengeance on the petitioner who approached this authority, they have decided to start the work from the other end, so that they will not

do the work when it reaches to the side of petitioner's property is the grievance of the petitioner. It is totally undemocratic and unwarranted and so, I direct the Panchayat authorities to have the project for the entire road and complete the work during the financial year 2014-15 itself."

7. Based on Exhibit P6 order, the first respondent has also issued consequential orders to the petitioner Grama Panchayat seeking compliance with Exhibit P6. From the affidavit filed by the Secretary of the petitioner Grama Panchayat, it is discernible that the Grama Panchayat does not have sufficient funds to complete the project, because the project is to cost about Rupees thirty lakhs. Though, initially Rupees Three lakhs was allotted in the present financial year for the maintenance of the road, there is a proposal for completing the entire project by using "MLA Funds" by next financial year. Accordingly, the Secretary of the petitioner Grama Panchayat has undertaken through the affidavit before the Court that the project for the entire

road can be completed in the next financial year 2015-16.

In the facts and circumstances, essentially going by the plea of the petitioner Grama Panchayat that it has been suffering from acute fund shortage, this Court proposes to extend the time initially fixed in Exhibit P2 and later in Exhibit P6, till the next financial year, especially based on the undertaking of the Secretary of the petitioner Grama Panchayat.

It is made clear that since Exhibits P2 and P6 are not interdicted on merits, the time as has been originally fixed has been extended till the next financial year based on the undertaking given by the petitioner Grama Panchayat. The petitioner Grama Panchayat shall ensure that the project of laying the road in question is completed by the next financial year. It is further made clear that if the petitioner Grama Panchayat fails to fulfil its undertaking, the second respondent is at liberty to initiate proper proceedings in

that regard, including invocation of contempt jurisdiction.

With the above observations, the writ petition stands disposed of. No order as to costs.

Dama Seshadri Naidu, Judge

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