

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 14TH DAY OF OCTOBER 2015/22ND ASWINA, 1937

WP(C).No. 22574 of 2014 (V)

PETITIONER:

**G.JOHNY @ JIJONI JOSE,AGED 39 YEARS,
S/O.LATE JOSE, THOTTAKARA HOUSE, MANJAPRA-683 581
ANGAMALY, ERNAKULAM DISTRICT, KERALA STATE.**

BY ADV. SRI.V.P.POULOSE

RESPONDENTS:

- 1. THE SECRETARY,
MINISTRY OF SOCIAL WELFARE AND TOURISM,
GOVT. OF KERALA, THIRUVANANTHAPURAM-695 033.**
- 2. THE DIRECTOR,
DEPARTMENT OF TOURISM, GOVT. OF KERALA,
THIRUVANANTHAPURAM-695 033.**
- 3. THE CHAIRMAN,
THE DISTRICT TOURISM PROMOTION COUNCIL,
ERNAKULAM. PIN-682 011**
- 4. THE SECRETARY,
THE DISTRICT TOURISM PROMOTION COUNCIL,
PARK AVENUE ROAD, ERNAKULAM-682 011**
- 5. THE SECRETARY,
THE DISTRICT TOURISM PROMOTION COUNCIL,
TRICHUR-680 009**

BY SPL. GOVERNMENT PLEADER (TOURISM) SRI.A.K.JOHN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 14-10-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

sts

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1 COPY OF THE WORK ORDER BEARING NO.1185/DTPC/EKM/2011 DATED 19/11/2011 AND EXECUTED AGREEMENT BEARING NO.5/2012-2013, DATED 20-01-2012.
- EXT.P2 COPY OF THE AGREEMENT EXECUTED BETWEEN THE PETITIONER AND 4TH RESPONDENT DATED 28/02/2012
- EXT.P3 COPY OF WORK ORDER BEARING NO.1185/DTPC/EKM/2011 DATED 03/03/2012
- EXT.P4 COPY OF LETTER HANDED OVER TO THE PETITIONER BEFORE THE KSEB AND AYYAMPUZHA GRAMA PANCHAYAT
- EXT.P5 COPY OF THE LETTER HANDED OVER TO THE PETITIONER FOR SUBMISSION BEFORE THE KSEB AND AYYAMPUZHA GRAMA PANCHAYAT
- EXT.P6 COPY OF THE ASSESSMENT LETTER FOR RS.14,71,458/-ISSUED BY DISTRICT NIRMITHI KENDRA, ERNAKULAM
- EXT.P7 COPY OF VALUATION STATEMENT FOR RS.14,71,458/-ISSUED BY DISTRICT NIRMITHI KENDRA, ERNAKULAM
- EXT.P8 COPY OF APPROVAL LETTER DATED 30-05-2013
- EXT.P9 COPY OF REPRESENTATION SUBMITTED TO 3RD RESPONDENT
- EXT.P10 COPY OF THE ACKNOWLEDGMENT ISSUED TO THE PETITIONER BY THE 1ST RESPONDENT
- EXT.P11 COPY OF NOTICE OF TENDER/AUCTION DATED 20-08-2014 PUBLISHED BY THE 4TH RESPONDENT IN THE MALAYALA MANORAMA DAILY DATED 22-08-2014.
- EXT.P12 COPY OF THE PAYMENT RECEIPT ISSUED BY THE 4TH RESPONDENT DATED 18/09/2014
- EXT.P13 COPY OF THE NOTICE DATED 25/09/2014 ISSUED BY THE 4TH RESPONDENT
- EXT.P14 COPY OF THE PHOTOGRAPH SHOWING THE OBSTRUCTION TO THE ENTRY PORTION
- EXT.P15 COPY OF THE FRESH ORDER DATED 28/04/2015 ISSUED BY THE 3RD RESPONDENT

WP(C).NO.22574/2014

- EXT.P16 COPY OF THE APPLICATION BEFORE THE 3RD RESPONDENT BY THE PETITIONER.
- EXT.P17 COPY OF THE MINUTES DATED 20/03/2015 DECIDED TO ASCERTAIN THE PERCENTAGE OF LOSS ON VARIOUS REVENUE STREAMS BY THE LICENSED OPERATOR.
- EXT.P18 COPY OF THE REPORT ISSUED BY KERALA ELECTRICAL AND ALLIED ENGINEERING COMPANY (KEL) TO THE 4TH RESPONDENT
- EXT.P19 COPY OF THE COMMUNICATION ISSUED BY THE 4TH RESPONDENT TO THE DIRECTOR OF DEPARTMENT OF TOURISM

RESPONDENT(S)' EXHIBITS

- EXT.R4(A) COPY OF THE LICENSE AGREEMENT NO.5/2012-13
- EXT.R4(B) COPY OF THE COMMUNICATION DATED 26/08/2014
- EXT.R4(C) COPY OF THE LETTER DATED 25/9/2014

/TRUE COPY/

P.A.TO JUDGE

sts

A.MUHAMED MUSTAQUE, J.

=====

W.P.(C).No.22574 of 2014

=====

Dated this the 14th day of October, 2015

J U D G M E N T

The petitioner was awarded the right of collection of entrance fee at Ezhattumugam Prakriti Gramam Project as per the tender notice dated 19.11.2011.

2. The petitioner has to pay monthly licence fee of Rs.1,13,000/-. The petitioner claims that he has also expended large amount for the renovation and modernization of the project.

3. The petitioner approached this Court on account of re- tender of the right to collect licence fee. The petitioner submits that there are some arrears of rent payable by him. However on account of subsequent event of construction of hanging bridge across the Chalakkudy River, he has lost substantial income and therefore licence fee payable by him ought to have been reconsidered by the authorities.

4. The petitioner narrated his grievances before the District Collector by Ext.P16. This Court is of the view that the matter

require a special consideration by the District Collector. The District Collector shall advert to Ext.P16 and if the petitioner's grievance is genuine, necessarily the District Collector also shall either give some concession or extend the period of the right. Appropriate decision shall be taken by the District Collector after calling necessary report from the construction agency and after hearing the petitioner within two months from the date of receipt of the copy of this judgment. Till a decision is taken by the District Collector the right to collection shall not be re-tendered. It is also open for the District Collector to allow the petitioner to pay the arrears of licence fee in installment.

The writ petition is disposed of, as above.

sd/-

sab

A.MUHAMED MUSTAQUE, JUDGE