

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 17TH DAY OF AUGUST 2015/26TH SRAVANA, 1937

WP(C).No. 23480 of 2015 (H)

PETITIONER(S):

**SAJU K., AGED 30 YEARS,
S/O.KUTTAPPAN, T.G BHAVAN, MALAPPANAMCODE P.O,
THIRUVANANTHAPURAM,
NOW RESIDING AT MANAKKAPPADI VEEDU, PULIYINAM P.O,
ANKAMALI, ERNAKULAM.**

BY ADV. SRI.J.JAYAKUMAR

RESPONDENT(S):

- 1. ELOOR MUNICIPALITY,
ELOOR, ERNAKULAM DISTRICT,
REPRESENTED BY ITS SECRETARY.**
- 2. THE SECRETARY,
ELOOR MUNICIPALITY, ELOOR, ERNAKULAM DISTRICT.**

**BY ADVS. SRI.R.SANJITH
SMT.C.S.SINDHU KRISHNAH**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17-08-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

PJ

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. COPY OF THE SAID APPEAL NO.4649/15 DATED 11.5.05 FILED BY THE PETITIONER BEFORE THE COUNCIL OF THE 1ST RESPONDENT.

EXHIBIT P2 COPY OF THE UNDERTAKING DATED 15.5.15 EXECUTED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXHIBIT P3 COPY OF THE APPEAL DATED 19.5.15 FILED BY THE PETITIONER BEFORE THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS.

EXHIBIT P4 COPY OF THE ORDER DATED 19.5.15 PASSED BY THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS.

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

A.V. RAMAKRISHNA PILLAI, J.

W.P.(C) No.23480 of 2015

Dated this the 17th day of August, 2015.

JUDGMENT

The petitioner has approached this Court seeking a direction against the respondent municipality to issue dismissal order on Ext.P1 appeal to the petitioner.

2. The petitioner is conducting a Motor Workshop from 2012 onwards at the property of one Noorudheen and subsequently it was shifted to the property of Adv.Aboobacker on the basis of the valued licence issued by the 2nd respondent secretary. The petitioner alleges that he had shifted his workshop National Automobiles (Marshal Automobiles), to the present location and also applied for new licence before the second respondent. The second respondent rejected his application. The petitioner further alleges that he filed Ext.P1 appeal before the council of the first respondent. The second respondent forcefully closed the workshop of the petitioner, ignoring the pendency of appeal. Therefore, the petitioner was

forced to execute Ext.P2 undertaking for opening his workshop. It is further alleged that thereafter petitioner challenged the same before the Tribunal for Local Self Government Institutions filing Ext.P3. The tribunal has not accepted the appeal. However, Ext.P4 order was issued directing the petitioner to approach the second respondent. Accordingly the petitioner produced Ext.P4 order along with a stay petition before the second respondent. Thereafter, on 10.6.2015, the respondent affixed a notice in the workshop of the petitioner informing that the appeal has been dismissed. However, no order has been issued so far.

3. Today, when the matter came up for hearing, the learned standing counsel for the respondent municipality made available to me for perusal a copy of the notice dated 27.5.2015 by which the petitioner was informed that the appeal submitted by the petitioner before the council has been rejected as per the council's decision dated 26.5.2015. The copy of the decision is also appended along with the notice.

In the light of the above, there is no surviving cause of action and therefore, the writ petition is closed reserving the right of the petitioner to challenge the present orders now passed by the council in appropriate proceedings. The respondent shall hand over a copy of the said decision to the petitioner within a week from the date of receipt of a copy of this judgment.

Sd/-
A.V. RAMAKRISHNA PILLAI
JUDGE

Scl.