

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 17TH DAY OF JUNE 2015/27TH JYASHTA, 1937

WP(C).No.23742 of 2014 (P)

PETITIONER:

**V.SUDHA,AGED 44 YEARS,D/O.VILASINI,
PRASANTH BHAVAN,PUNNAKKADU
PERUMPAZHUTHOOR P.O.**

BY ADV.SRI.R.T.PRADEEP

RESPONDENT'S:

- 1. PRINCIPAL SECRETARY,
HEALTH & FAMILY WELFARE DEPARTMENT,
SECRETARIAT,THIRUVANANTHAPURAM-695001.**
- 2. DIRECTOR,AYURVEDA DIRECTORATE,
THIRUVANANTHAPURAM-695 001.**
- 3. NEYYATTINKARA MUNICIPALITY,
REPRESENTED BY ITS SECRETARY,
MUNICIPAL OFFICE,NEYYATTINKARA-695 121.**
- 4. CHAIRMAN,MUNICIPAL COUNCIL,
NEYYATTINKARA MUNICIPALITY-695 121.**

**R1 & R2 BY GOVT. PLEADER SRI.G.GOPAKUMAR.
R3 & R4 BY ADV.SRI.PIRAPPANCODE V.S.SUDHIR
SRI.JELSON J.EDAMPADAM**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 17-06-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

pk

WP(C).No.23742 of 2014 (P)

APPENDIX

PETITIONER'S EXHIBITS:

**EXT.P1:TRUE COPY OF DECISION NO.8(2) WIDE RESOLUTION DTD 17.10.2013
BY THIRD RESPONDENT.**

**EXT.P2:TRUE COPY OF COMMUNICATION DTD 22.10.2013 BY THE SECRETARY
OF THE MUNICIPALITY TO THE GOVERNMENT.**

**EXT.P3:TRUE COPY OF LETTER DTD 12.2.2014 FROM CHAIRMAN OF
MUNICIPALITY TO GOVERNMENT.**

**EXT.P4:TRUE COPY OF REPRESENTATION DTD 18.8.14 MOVED BY THE
PETITIONER BEFORE THE THIRD RESPONDENT.**

RESPONDENT'S EXHIBITS:

NIL

//TRUE COPY//

P.S. TO JUDGE

pk

A.V.RAMAKRISHNA PILLAI, J

WPC No.23742 of 2014

Dated this the 17th day of June, 2015

JUDGMENT

Alleging that the Chairman of the respondent Municipality in deviance of his earlier stand wanted to shift the sub centre from the ward of the petitioner, the petitioner has approached this Court.

2. The petitioner is a councilor from Punnakkadu of Neyyattinkara Municipality. The Government sanctioned an Ayurveda Sub Centre which has to be started in the place determined by Municipality. Accordingly, the Municipality by Ext.P2 resolution resolved to start the Sub Centre in the building of Cultural Centre in the ward of the petitioner. The District Medical Officer submitted feasibility report to start the sub centre in the ward of the petitioner. The Municipality as well as the Chairman called upon the Government to start the functioning of centre in the ward of the petitioner at the earliest. Thereafter, the Municipal Council without rescinding the

earlier resolution passed a resolution to start sub centre in Mambazhakkara ward. Now, the Chairman in deviance of his earlier stand wanted to shift the sub centre from the ward of the petitioner; it is alleged. It is with this background, the petitioner has come up before this Court.

3. Arguments have been heard.

4. The learned counsel for the petitioner would submit that the Government sanctioned to establish one Ayurveda sub centre in each local authority, the site of which had to be determined by the local authority. The third respondent passed Ext.P1 resolution dated 17.10.2013 to establish an Ayurveda sub centre at the newly constructed cultural centre in Punnakkadavu ward. The petitioner alleges that the Secretary of the Municipality informed the decision taken by Ext.P1 to the Government as per communication dated 22.10.2013.

5. The petitioner's grievance is that now the Municipality has taken a resolution to start the sub centre in Mampuzhakkara of Neyyattinkara Municipality.

As rightly pointed out by the petitioner, the ward of

the petitioner has got a superior claim to have the sub centre in implementation of Ext.P1 as it is prior in time. Respondents 3 and 4 are legally precluded and estopped from nullifying Exts.P1, P2 and P3. Therefore, this Court is of the view that the petitioner is entitled to get the relief as prayed for.

In the result, this writ petition is allowed. Respondents 1 to 4 are directed to start Ayurveda Sub Centre in the building of cultural centre in the ward of the petitioner (Punnakkadavu) in preference to Mambazhakkara ward within a period of one month from the date of receipt of a copy of this judgment.

It is hereby made clear that this will not stand in the way of the respondent in establishing any additional sub centre in the Mambazhakkara ward of Neyyattinkara if the rule and finance permits to do so.

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

CSS/

true copy

P.S.TO JUDGE