

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN
&
THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE**

MONDAY, THE 14TH DAY OF DECEMBER 2015/23RD AGRAHAYANA, 1937

WP(C).No. 25522 of 2015 (S)

PETITIONER(S):

**KERALA TREES AND ENVIRONMENT PROTECTION SAMITHI
REG. NO EKM TC/1027/2014, H.O SANSKRITI
RAVIPURAM ROAD
KOCHI 682 016
REPRESENTED BY ITS SECRETARY K BINU, AGED 44 YEARS**

**BY ADVS.SRI.SIVAN MADATHIL
SMT. P.JSHAKUMARI**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001**
- 2. SECRETARY,
PUBLIC WORKS (H) DEPARTMENT, GOVERNMENT OF KERALA
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM 695 001**
- 3. PRINCIPAL SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM 695 001**
- 4. CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT, LMS VELLAYAMBALAM ROAD
THIRUVANANTHAPURAM 695 033**
- 5. DISTRICT COLLECTOR,
CIVIL STATION, KAKKANAD, ERNAKULAM 682 030**
- 6. PRINCIPAL CONSERVATOR OF FORESTS
FOREST & WILD LIFE DEPARTMENT, FOREST HEADQUARTERS
VAZHUTHACAUD, THIRUVANANTHAPURAM 695 014**
- 7. DIRECTOR
DIRECTORATE OF URBAN AFFAIRS, SWARAJ BHAVAN
NANTHANCOD, KOWDIAR P.O, THIRUVANANTHAPURAM 695 003**

8. DIRECTOR
DIRECTORATE OF PANCHAYATHS, PUBLIC OFFICE BUILDING
THIRUVANANTHAPURAM 695 033

9. KERALA STATE TRANSPORT PROJECT (KSTP),
LMS VELLYAMBALAM ROAD, PALAYAM
THIRUVANANTHAPURAM 695 033 REPRESENTED BY
ITS CHIEF ENGINEER

BY SRI.M.P.MADHAVANKUTTY, SPL. GOVT. PLEADER FOR FOREST

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14-12-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF THE ORDER GO(RT) NO.68/2010/F&WLD DATED 10.2.2010 ISSUED BY FOREST AND WILDLIFE (E) DEPARTMENT, GOVERNMENT OF KERALA.

EXT.P2: TRUE COPY OF THE PROCEEDINGS OF THE MEETING HELD ON 11.7.2013 AT 10.00 A.M. UNDER THE CHAIRMANSHIP OF HON'BLE CHIEF MINISTER AT CHIEF MINISTER'S CONFERENCE HALL ALONG WITH ENGLISH TRANSLATION.

EXT.P3: TRUE COPY OF THE CIRCULAR NO.16240/HI/2015/PWD DATED 27.6.2015 ISSUED BY A.P.M.MUHAMMED HANEESH, SECRETARY TO GOVERNMENT, PUBLIC WORKS (H) DEPARTMENT, GOVERNMENT OF KERALA ALONG WITH ENGLISH TRANSLATION.

EXT.P4: TRUE COPY OF THE CIRCULAR NO.75667/RC2/2013/LSGD DATED 2.1.2014 OF LOCAL SELF GOVERNMENT (RC) DEPARTMENT, GOVERNMENT OF KERALA.

EXT.P5: TRUE COPY OF THE COMMUNICATION F.NO.4-1/2015-FPD DATED 17.3.2015 FROM THE ASSISTANT INSPECTOR GENERAL OF FORESTS (FPD), GOVERNMENT OF INDIA TO THE PRINCIPAL CHIEF CONSERVATOR OF FORESTS, THIRUVANANTHAPURAM.

EXT.P6: TRUE COPY OF THE COMMUNICATION NO.SW3-1032/15 DATED 30/7/2015 FROM PRINCIPAL CHIEF CONSERVATOR OF FORESTS, (SOCIAL FORESTRY), THIRUVANANTHAPURAM TO PROF.SITARAMAN, PRESIDENT OF THE PETITIONER ORGANIZATION.

EXT.P7: TRUE COPY OF THE COMMUNICATION NO.E3-569/15 DATED 4.5.15 FROM DEPUTY FOREST CONSERVATOR (NC), SOCIAL FORESTRY DIVISION, ERNAKULAM TO THE PETITIONER ALONG WITH ENGLISH TRANSLATION.

EXT.P8: TRUE COPY OF THE NEWS APPEARED IN MADHYAMAM DAILY DATED 22.5.2015 AND IN MATHRUBHUMI DAILY DATED 22.5.2015 ALONG WITH ENGLISH TRANSLATION.

EXT.P9: TRUE COPY OF THE REPRESENTATION DATED 8.5.2015 SUBMITTED BY THE PETITIONER ORGANIZATION BEFORE THE HON'BLE MINISTER FOR FOREST, GOVERNMENT OF KERALA ALONG WITH ENGLISH TRANSLATION.

EXT.P10: TRUE COPY OF THE REPRESENTATION DT 15.5.2015
SUBMITTED BY THE PETITIONER ORGANIZATION BEFORE THE
HON'BLE MINISTER LOCAL SELF GOVERNMENT, GOVERNMENT OF
KERALA ALONG WITH ENGLISH TRANSLATION.

EXT.P11: TRUE COPY OF THE REPRESENTATION DT 8.5.2015
SUBMITTED BY THE PETITIONER ORGANIZATION BEFORE THE
HON'BLE CHIEF MINISTER, GOVERNMENT OF KERALA ALONG WITH
ENGLISH TRANSLATION.

EXT.P12: TRUE COPY OF THE REPRESENTATION DATED 8.5.2015
SUBMITTED BY THE PETITIONER ORGANIZATION BEFORE THE
PRINCIPAL CHIEF CONSERVATOR OF FORESTS, GOVERNMENT OF
KERALA ALONG WITH ENGLISH TRANSLATION.

//True Copy//

PS to Judge

Rp

ASHOK BHUSHAN, C.J.

&

A.M. SHAFFIQUE, J.

=====

W.P. (C) No. 25522 of 2015

=====

Dated this, the 14th day of December, 2015

J U D G M E N T

Shaffique, J.

Petitioner has filed this Public Interest Litigation *inter alia* alleging that after Ext.P3 circular dated 27/6/2015 has been issued, respondent authorities are not complying with the instructions issued in terms of Ext.P1 order dated 10/2/2010 and Ext.P2 decision taken in the meeting convened on 11/7/2013. It is *inter alia* stated that the Committee has been constituted by the Government in terms of Government Order dated 10/2/2010 by which restrictions had been imposed for cutting and removal of trees standing in public places. Before undertaking the process of cutting and removal of trees, necessary inspection has to be conducted by the Committee and only after getting a report from the Committee that steps should be taken for cutting and removal of trees. Further, in the conference held at the instance of the Chief Minister on 11/7/2013, a decision was taken for formation of

-:2:-

a Tree Committee, which has to go into the details of the requirement to cut and remove dangerous trees standing in public places and only on the decision of the Tree Committee that steps have to be taken in that regard. According to the petitioner, as per Ext.P3, Government had issued circular dated 27/6/2015 by which the Executive Engineer of Public Works Department was given the right to identify the dangerous trees which have to be cut and removed from the road side and road margin and with the consent of the District Collector, such trees could be cut and removed. This circular, according to the petitioner, runs contrary to Ext.P1 Government Order and the decision taken in the conference for formation of the Tree Committee.

2. Petitioner had also pointed out the number of trees which had been cut and removed for a period of one year from 1st January, 2014 to 31st December, 2014 and also contends that after Ext.P3 order had been passed, cutting and removal of trees are going on, which are situated in the road side margin even without taking into consideration the fact that it is in a dangerous position or not.

3. A perusal of Ext.P3 would indicate that such circular

-:3:-

seems to have been issued on account of a mishap by which a big tree fell down on the top of a school van which led to the death of 5 infants. Government having considered the matter seriously and as a precautionary measure directed the Executive Engineer of the Public Works Department to give a detailed report to the District Collector regarding the futile trees and branches and also dangerous trees standing by the road side. Thereafter, it is stated that with the consent of the District Collector, the trees can be cut and removed.

4. The main contention raised by the petitioner is that while the District Collector has other duties to perform, he may not get much time to verify whether the trees are standing in a dangerous situation or not. When a Tree Committee has been constituted pursuant to Ext.P2 conference, it will be proper for the Tree Committee to go into such details and to ensure that a tree is standing in dangerous condition or not. But it is relevant to note that Ext.P3 had been issued under special circumstances by which the Executive Engineer of the Public Works Department was asked to give a report to the District Collector in respect of trees which may cause danger to the pedestrians as well as vehicular

traffic. On receiving such report, the District Collector will have to consider the same and give consent for cutting and removal of trees. This procedure had been made to ensure that an immediate action has to be taken for cutting and removal of dangerous trees as well as branches of such trees. The only thing to be considered is whether the authorities namely the Executive Engineer as well as the District Collector are ensuring that the trees are standing in a dangerous situation. This has to be considered, if necessary, after getting reports from other authorities as well and after conducting spot verification.

5. Under such circumstances when Ext.P3 had been issued with a specific purpose, the authorities namely the Executive Engineer as well as the District Collector have to ensure that only such trees and branches of such trees, which are in such a dangerous situation are cut and removed. Taking into consideration the over all factual circumstances of the case, we do not think that any further direction is required. We only observe that the authorities, viz., the Executive Engineer as well as the District Collector, shall ensure that only dangerous trees and branches of such trees which are dangerous are cut and

W.P(C) No.25522/15

-:5:-

removed. In other circumstances, the procedure followed in terms of Government Order at Ext.P1 and the Tree Committee as formed in terms of Ext.P2 shall be complied with.

With the above observation, this writ petition is closed.

Sd/-
ASHOK BHUSHAN, CHIEF JUSTICE

Sd/-
A.M. SHAFFIQUE, JUDGE

Rp14/12/2015

//True Copy//

PS to Judge