

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

THURSDAY, THE 6TH DAY OF AUGUST 2015/15TH SRAVANA, 1937

WP(C).No. 25880 of 2014 (H)

PETITIONERS/PETITIONERS:

1. **USHA PRASANNAN**
W/O. LATE PRASANNAN, IDAPARAMBATHU VEEDU
VALANJAVATTOM P.O., TIRUVALLA.
2. **RAJEENA M.R.**
D/O. RAJAPPAN, MUTTATHUCHIRAYIL HOUSE, VALANJAVATTOM P.O.
TIRUVALLA.
3. **LAJI K.**
W/O. LATE PURUSHOTHAMAN, CHIRAYILMALIL
VALANJAVATTOM PO, TIRUVALLA.
4. **PONNAMMA BABY**
W/O. BABY, PUTHENPURA KIZHAKETHIL, VALANJAVATTOM P.O.
TIRUVALLA.
5. **YAMUNA JOHN**
W/O. LATE JOHN, PUTHENPURA KIZHAKETHIL
VALANJAVATTOM P.O., TIRUVALLA
6. **ANNAMMA VARGHESE**
W/O. SAM CHACKO, ILLAMPATHIL VEEDU, VALANJAVATTOM P.O.
TIRUVALLA.
7. **SUBHADRA**
S/O. LATE SIVANKUTTY, VARAMBINAKATHUMALIYIL
VALANJAVATTOM P.O., TIRUVALLA.
8. **ASA RAJAN**
W/O. RAJAN, PUTHENPURAKIZHAKKETHIL, VALANJAVATTOM P.O.
TIRUVALLA
9. **KRISHNANKUMARI VASUDEVAN**
W/O. VASUDEVAN, THANTHANIL VEEDU, VALANJAVATTOM P.O.
TIRUVALLA
10. **BHARATHY**
W/O. LATE RAJAPPAN, ATHIKKAPARAMBIL VEEDU
VALANJAVATTOM P.O., TIRUVALLA

(CONTD.....)

11. **PUSHPA**
W/O. LATE RAJENDRAN NAIR, P.R.F JSQ NO.1
VALANJAVATTOM P.O., TIRUVALLA.
 12. **GEETHA OMANAKUTTAN**
W/O. OMANAKUTTAN, PONMAYIL VEEDU, VALANJAVATTOM P.O.
TIRUVALLA.
 13. **AMBIKA MOHAN**
W/O. MOHAN, CHUNKATHUMALIYIL VEEDU, VALANJAVATTOM P.O.
TIRUVALLA.
 14. **AJITHA V.R**
W/O. SHIBU P.T., ANCHARIKKADU VEEDU, VALANJAVATTOM P.O.
TIRUVALLA
 15. **RAJI**
W/O. PRASAD, VADAKKE VEETIL, PARUMALA P.O.
TIRUVALLA
 16. **LISSY JACOB**
W/O. JACOB P.P., PALLIPARAMBIL VEEDU, VALANJAVATTOM P.O.
TIRUVALLA.
 17. **ANNAMMA JOSEPH**
W/O. JOSEPH, MANAPPARAMBIL VEEDU, CHATHANKERI P.O.
TIRUVALLA.
- BY ADVS.SRI. T.P.PRADEEP
SRI. P.K. SATHEES KUMAR

RESPONDENTS/RESPONDENTS:

1. **OMANA SATHEESH**
SECRETARY
KUDUMBA SHREE AREA DEVELOPMENT SOCEITY (ADS)
WARD NO.7, THOTTAPPUZHASSERY GRAMA PANCHAYATH
THOTTAPPUZHASSERY - 689 105.
2. **THE DISTRICT MISSION CO ORDINATOR**
KUDUMBASHREE DISTRICT MISSION
PATHANAMTHITTA COLLECTORATE
PATHANAMTHITTA - 689 645.
3. **EXUCUTIVE DIRECTOR**
KUDUMBASHREE STATE MISSION
TRIDA REHABILITATION BLDG., MEDICAL COLLEGE P.O.
THIRUVANANTHAPURAM - 695 001.
4. **THE TRAVANCORE SUGARS AND CHEMICALS LTD.**
REPRESENTED BY ITS MANAGING DIRECTOR
VALANJAVATTOM P.O., THIRUVALLA - 689 104.

(CONTD.....)

5. DISTRICT LABOUR OFFICER
PATHANAMTHITTA.

6. LISSY SUNNY
W/O. SUNNY, CHAKKUMMOTTIL HOUSE, VALANJAVATTOM P.O.
THIRUVALLA - 689 104

BY ADVS. SRI.UNNI. K.K. (EZHUMATTOOR)
SRI.M.GOPIKRISHNAN NAMBIAR
SRI.P.GOPINATH
SRI.P.BENNY THOMAS
SRI.K.JOHN MATHAI
SRI.JOSON MANAVALAN
SRI.KURYAN THOMAS
SRI.N.ASHOK KUMAR
BY GOVERNMENT PLEADER SRI. S. JAMAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06-08-2015
ALONG WITH WP(C) NO.32940 OF 2014, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:

APPENDIX

PETITIONERS' EXHIBITS :-

- EXHIBIT P1 : COPY OF THE NOTIFICATION PUBLISHED BY THE 4TH RESPONDENT DATED 20.11.2012
- EXHIBIT P2 : COPY OF THE MINUTES OF THE ADS OF WARD NO.7 OF THOTTAPPUZHASSERRY PANCHAYATH DATED 08.12.2012
- EXHIBIT P3 : COPY OF THE AGREEMENT ENTERED BETWEEN THE 1ST AND 4TH RESPONDENT DATED 21.12.2012
- EXHIBIT P4 : COPY OF THE CIRCULAR DATED 10.12.2012 ISSUED BY THE 2ND RESPONDENT
- EXHIBIT P5 : COPY OF THE JUDGMENT DATED 13.06.2014 IN WP(C) NO.2689/2013
- EXHIBIT P6 : COPY OF THE ORDER DATED 04.09.2014 ISSUED BY THE 2ND RESPONDENT
- EXHIBIT P7 : COPY OF THE COMPLAINT DATED 19.09.2014 PREFERRED TO THE 3RD RESPONDENT
- EXHIBIT P8 : COPY OF THE LETTER DATED 30.09.2014 ISSUED BY THE 4TH RESPONDENT
- EXHIBIT P9 : COPY OF THE LETTER DATED 04.10.2014 PREFERRED TO 4TH RESPONDENT
- EXHIBIT P10 : COPY OF THE NOTICE DATED 07.10.2014 ISSUED BY THE 5TH RESPONDENT

RESPONDENTS' EXHIBITS:-

- EXHIBIT R6(A) : COPY OF THE COUNTER AFFIDAVIT DATED 04.11.2013 SUBMITTED BY THE 2ND RESPONDENT IN WP(C) NO.2689 OF 2013.
- ANNEXURE A : COPY OF THE LETTER DATED 01.10.2014 ISSUED BY CDS, CHAIRPERSON, THOTTAPPUZHASSERRY PANCHAYATH TO THE 4TH RESPONDENT ALONG WITH THE FRESH LIST OF PERSONS.
- ANNEXURE B : COPY OF THE AGENDA OF THE MEETING BETWEEN CDS, CHAIRPERSON, THOTTAPPUZHASSERRY PANCHAYATH ADS MEMBERS DATED 30.09.2014.

//TRUE COPY//

P.A. TO JUDGE

K. VINOD CHANDRAN, J.

W.P(C). Nos.25880 & 32940 of 2014

Dated this the 6th day of August, 2015.

JUDGMENT

The petitioners in the above writ petitions are concerned with the cancellation of the contract; effected in pursuance to Ext.P4. The petitioners in WP(C) No.25880 of 2014 are persons, employed by the first respondent, in pursuance of the contract entered into with the 4th respondent Company. The first respondent is the petitioner in the other writ petition. The entire controversy arose with Ext.P1 notification, in which the first respondent was successful. The 6th respondent challenges the employment of the petitioners contending that they are not members of the Area Development Society (ADS) under the first respondent.

2. Essentially, what is to be noticed is that, Kudumbasree Units are constituted as the lowest units in a Ward. The various

Kudumbasree Units in a Ward together constitutes an Area Development Society [ADS]. The Area Development Societies in the entire Panchayat constitute the Community Development Society (CDS). As per Ext.P1, only ADS were entitled to apply for the contract of filling and bottling foreign liquor, produced by the first respondent. The 4th respondent applied and was successful. However, based on Ext.P4, the 6th respondent and the other unsuccessful tenderors were before this Court. This Court, by Ext.P5 judgment, directed consideration of the representation of the unsuccessful tenderors by Ext.P6. The representation was considered and the same was allowed, finding that the petitioners were not members of the Kudumbasrees, within the Panchayat itself.

3. The 6th respondent would contend that Ext.P4 clearly indicates that the members deputed by a successful ADS under Ext.P1 has to be the members of the very same ADS or atleast members of the CDS. The petitioners herein are said to be members of Kudumbasrees from a different Panchayat altogether.

4. This Court is inclined to agree with the said contention, even going by Ext.P1, since it specifically says that ADS shall sent 22 members daily for the contract work. Hence, even if the contention of the petitioners that, Ext.P4 is only prospective, is accepted, the terms of the notification itself stipulates that those who are sent for work are members of the ADS.

5. The learned counsel appearing for the Company would concede that, even in the earlier litigation, the Company had not specifically raised any such stipulation and the Company was concerned only with the work being carried out without any hindrance. In such circumstances, the Company did not intend that, Ext.P1 notification was one issued with the intention of permitting only the members to be deputed for the contract work.

6. What assumes relevance, herein, is that the petitioners were granted contract work on 06.12.2012 and had been continuing over the years and there was also a stay granted in the above writ petition. The contract period also expires in December, 2015. In such circumstances, only taking into

consideration the short period, which has to be completed and also considering the fact that there could be no re-allotment of the tender to anyone else, the petitioners can be allowed to continue till the contract period is over, however subject to the satisfaction of the respondent Company. When any subsequent notification is made, definitely Exts.P4 and P6 would be binding on all the Kudumbasree Units, ADS and CDS.

Both the writ petitions are disposed of.

Sd/-

**K. VINOD CHANDRAN,
JUDGE**

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