

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE THE CHIEF JUSTICE MR.ASHOK BHUSHAN

&

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

TUESDAY, THE 1ST DAY OF SEPTEMBER 2015/10TH BHADRA, 1937

WP(C).No. 26356 of 2015 (S)

PETITIONER(S):

VAYALAR SHAJI @ SHAJI P.S. AGED 42 YEARS
S/O.SURENDRAN, PUTHUVAL NIKARTHIL VEEDU, VAYALAR P.O.
CHERTHALA, ALAPPUZHA DIST.

BY ADV. SRI.B.S.SURESH (CHIRAKKARA)

RESPONDENT(S):

1. STATE OF KERALA
REPRESENTED BY CHIEF SECRETARY, SECRETARIAT
THIRUVANANTHAPURAM 695 001.

2. SECRETARY
KERALA STATE WATER TRANSPORT DEPARTMENT, SECRETARIAT
THIRUVANANTHAPURAM 695 001.

R1 BY SR.GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
01-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C).No. 26356 of 2015 (S)

APPENDIX

PETITIONER(S) ' EXHIBITS

P1: THE COPY OF A NEWS PAPER REPORT IN INDIAN EXPRESS DATED 27/8/15

RESPONDENT(S) ' EXHIBITS

NIL

/TRUE COPY/

PS TO JUDGE

**ASHOK BHUSHAN, CJ
&
A.M.SHAFFIQUE, J**

W.P.(C).No. 26356 of 2015

Dated this the 1st September, 2015

JUDGMENT

Shaffique, J.

The petitioner has approached this Court seeking the following reliefs:

i) a writ of mandamus or other appropriate writ, order or direction, directing the respondents to initiate criminal prosecution and department action against the authorities who are assigned for the purpose of granting fitness certificate and the authority of registering as per the provisions contained in Kerala Inland Vessels Rules, 2010 and also the authority who leased out the vessel for transporting passengers without considering its age and fitness of the vessel involved in the boat tragedy on 26.8.2015 in Fort Kochi."

2. This Writ Petition is filed as a public interest litigation with reference to an accident that occurred in Kochi backwaters on 26.8.2015. The petitioner submits

that the mishap has occurred since the vessel involved in the accident was not having sufficient fitness and it lacked proper maintenance as well as safety measures. It is stated that the fitness certificate for the vessel was issued as per the provisions of the Kerala Inland Vessels Rules, 2010. The accident by itself would evidence that the competent authority has not taken care of safety of the passengers. It is also stated that the vessel was aged more than 36 years and the fitness certificate was issued negligently. The authorities should not have permitted the vessel to be used as a passenger vessel.

3. Having heard learned counsel for the petitioner, we are of the view that since the materials are not available for this Court to verify under what circumstance the fitness certificate was issued for the particular vessel, it may not be possible for this Court to conduct a detailed enquiry into the matter. The petitioner has to approach the competent authorities and submit necessary representation ventilating the grievance regarding the

lack of sufficient facilities being provided for the vessel and it is for the said authorities to consider and take appropriate action in the matter.

Reserving the right of the petitioner to approach the competent authorities ventilating the grievances, this Writ Petition is closed.

**ASHOK BHUSHAN
CHIEF JUSTICE**

**A.M.SHAFFIQUE
JUDGE**

vgs1/9/15