

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

WEDNESDAY, THE 9TH DAY OF SEPTEMBER 2015/18TH BHADRA, 1937

WP(C).No. 26565 of 2015 (U)

PETITIONER(S) :

K.K.DAMODARAN
INDIAN OIL DEALER, RIVER ROAD, KOCHI 682 001
REPRESENTED BY ITS PARTNER, RAJESH GOPAL
S/O.V.K.GOPALAN, RESIDING AT VELIMPARAMBIL HOUSE
EROOR P.O, TRIPUNITHURA, ERNAKULAM DISTRICT.

BY ADVS.SRI.K.RAMAKUMAR (SR.)
SRI.S.M.PRASANTH
SRI.G.RENJITH
SMT.ASHA BABU

RESPONDENT(S) :

1. UNION OF INDIA
REPRESENTED BY THE SECRETARY TO THE
MINISTRY OF SURFACE TRANSPORT
GOVERNMENT OF INDIA, NEW DELHI 110 001.

2. THE COCHIN PORT TRUST,
REPRESENTED BY ITS SECRETARY, COCHIN 682 009.

3. THE DEPUTY CONSERVATOR
COCHIN PORT TRUST, COCHIN 682 009.

R1 BY ADV. SRI.P.K.RAMKUMAR, CGC
R2 &3 BY ADV. SRI.K.ANAND (SR.)
R2&3 BY ADV. SMT.LATHA ANAND
R BY SRI.N.NAGARESH, ASSISTANT SOLICITOR GENERAL OF INDIA

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

WP(C).No. 26565 of 2015 (U)

APPENDIX

PETITIONER(S) ' EXHIBITS

EXHIBIT P1. COPY OF THE RECEIPT DATED 16.4.13 ISSUED BY THE COCHIN
PORT TRUST.

EXHIBIT P2. COPY OF THE ORDER DATED 22.4.14 ISSUED TO PETITIONER BY
COCHIN PORT TRUST.

EXHIBIT P3. COPY OF THE LIST SUBMITTED BY THE CONVENOR, JETTY
OPERATORS ASSOCIATION BEFORE THE COCHIN PORT TRUST.

EXHIBIT P4. COPY OF THE ORDER DATED 31.8.15 ISSUED TO THE PETITIONER
BY THE 3RD RESPONDENT.

RESPONDENT(S) ' EXHIBITS

NIL

/TRUE COPY/

PS TO JUDGE

vgs

A.MUHAMED MUSTAQUE, J.

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W.P.(C).No. 26565 of 2015

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Dated this the 9th day of September, 2015

J U D G M E N T

The petitioner aggrieved by Ext.P4 order issued by the Cochin Port Trust, has approached this Court. By Ext.P4 the petitioner has been ordered to stop the functioning of the jetty.

2. The petitioner's case is that he was not given an opportunity for hearing before issuance of Ext.P4. It is further stated that he has already applied for renewal application and the same is pending.

3. In this matter, a detailed counter affidavit has been filed by the respondent as well as the reply affidavit by the petitioner. The counter affidavit reflects the reasons for issuance of Ext.P4.

4. This Court is of the view that, essentially those reasons in counter appears to supplement Ext.P4 order. Therefore an opportunity ought to have been given to the petitioner to raise all objection as against the facts now adverted in Ext.P4 order. In that view of the matter, Ext.P4 is treated as a notice, the petitioner shall

raise all the objections in the matter. The petitioner shall also take note of the facts referred in the counter affidavit filed by the respondent to raise objection. The objection shall be raised within a period of two weeks from the date of receipt of the copy of this judgment.

2. After affording opportunity to the petitioner, appropriate order shall be passed as expeditiously as possible. In view of the fact that the learned Senior counsel for the petitioner apprehended the bias in the matter on the officer now issued Ext.P4 order as he has already taken decision, this court is of the view to allay any bias, the petitioner shall raise his objection against Ext.P4 before the Chairman of the Port Trust. The Chairman shall take appropriate decision in the objection raised by the petitioner. It is made clear that no action shall be taken in this matter against the petitioner unless final orders are passed by the Chairman.

The writ petition is disposed of.

sab

A.MUHAMED MUSTAQUE, JUDGE