

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

WEDNESDAY, THE 16TH DAY OF SEPTEMBER 2015/25TH BHADRA, 1937

WP(C) .No. 27682 of 2015 (S)

PETITIONER(S) :

RAVI T.M. AGED 59 YEARS,
S/O.MADHAVAN, THATTARUPARAMBIL HOUSE,
KURUVILASSERY P.O., MALA, THRISSUR-680 732.

BY ADV. DR.K.P.PRADEEP

RESPONDENT(S) :

1. STATE OF KERALA, REPRESENTED
BY ITS SECRETARY,
DEPARTMENT OF FINANCE, GOVERNMENT SECRETARIATE,
THIRUVANANTHAPURAM-695 001.
2. SECRETARY TO THE GOVERNMENT OF KERALA,
DEPARTMENT OF SPORTS AND YOUTH AFFAIRS,
GOVERNMENT SECRETARIATE,
THIRUVANANTHAPURAM-695 001.
3. DISTRICT COLLECTOR, THRISSUR,
CIVIL STATION, P.O. AYYANTHOLE,
THRISSUR-680 003.
4. EXECUTIVE SECRETARY & PROJECT MANAGER,
NIRMITHI KENDRA, THRISSUR, NIRMITHI COMPLEX,
NEAR CIVIL STATION, P.O. AYYANTHOLE,
THRISSUR-680 003.
5. MALA GRAMA PANCHAYATH,
MALA P.O., THRISSUR,
REPRESENTED BY ITS SECRETARY.

R1 TO R3 BY SPL.GOVERNMENT PLEADER SMT.GIRIJA GOPAL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
16-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1: COPY OF ORDER GO(P).NO.247/2004/FIN. DATED 27.5.2004 ISSUED BY THE FIRST RESPONDENT.

EXHIBIT P2: COPY OF CIRCULAR NO.40/2012/FIN DATED 21.6.2012 ISSUED BY THE 1ST RESPONDENT.

EXHIBIT P3: COPY OF GOVERNMENT ORDER GO(RT)NO.55/12/S & YA DATED 9.3.2012 ISSUED BY THE 2ND RESPONDENT.

EXHIBIT P4: COPY OF ESTIMATE DATED 20.7.2015 FOR RS.6.10 LAKHS SUBMITTED BY THE 4TH RESPONDENT TO THE 3RD RESPONDENT, REGARDING THE CONSTRUCTION ACTIVITIES IN K KARUNAKARAN MEMORIAL SPORTS ACADEMY, MALA.

EXHIBIT P4(a): COPY OF ESTIMATE DATED 20.7.2015 FOR RS.11 LAKHS SUBMITTED BY THE 4TH RESPONDENT TO THE 3RD RESPONDENT REGARDING THE CONSTRUCTION ACTIVITIES IN K.KARUNAKARAN MEMORIAL SPORTS ACADEMY, MALA.

EXHIBIT P5: COPY OF GOVERNMENT ORDER NO.FN11 46894/15/TNP DATED 18.8.2015 ISSUED BY THE 3RD RESPONDENT SANCTIONING FUND FOR EXHIBIT P4 AND P4(a) SCHEMES.

/TRUE COPY/

PS TO JUDGE

ASHOK BHUSHAN, C.J. & A.M. SHAFFIQUE, J.

W.P.(C) No. 27682 OF 2015

Dated this the 16th day of September, 2015

JUDGMENT

Ashok Bhushan, C.J.

Heard both the sides. This Public Interest Litigation has been filed praying for the following reliefs:

"i. To call for the records leading to Ext.P5 order and issue a writ of certiorari or any other writ or directions or order to quash Ext.P5 order issued by the 3rd respondent.

ii. To issue a writ of mandamus or any other writ or order or direction to the 3rd respondent to strictly comply with the stipulations in Ext.P12 Government Order and not to allocate or sanction funds under Ext.P1 Scheme for Ext.P4 and P4(a) projects or any such other construction activities for memorial or memorial building.

iii. Direct the respondents to pay cost of this proceedings.

iv. Grant any other relief, in the interest of justice, which this Hon'ble Court deems fit in the facts and circumstances of the case."

2. Petitioner, who claims to be a resident of Kuruvilassery of Mala in Thrissur District, aggrieved by the action of District Collector, Thrissur who allegedly has violated the terms and conditions of Government Order in connection

with the Special Development Fund for Members of Legislative Assembly in Kerala while sanctioning a project to construct a sports academy in Mala Grama Panchayat, has come with this writ petition.

3. Petitioner's case is that Government has already issued a Government Order, dated 27.05.2004 wherein it has been provided in Appendix 2, the list of works not permissible under the Special Development Fund for MLAs. He refers to item No.5 which relates to "Memorials or memorial buildings". According to the petitioner, the said Government Order has further been clarified by a Circular dated 21.06.2012 wherein again in paragraph (1)(e) it is provided that "Construction/Repair of memorials or memorial buildings" from Special Development Fund for MLAs have been prohibited.

4. Petitioner refers to the order issued by the District Collector, Thrissur, Ext.P5, where the work is described as "Construction of Padippura and Compound Wall and High Mast for Indoor Stadium in K.Karunakaran Memorial Sports Academy, Mala Grama Panchayat" has been sanctioned. Petitioner's

submission is that sanctioning of said work is nothing but construction of memorial or memorial building which is prohibited to be used from the Special Development Fund for MLAs by the aforesaid Government Order. A perusal of the nature of work indicates that the work to be undertaken is construction of compound wall and High Mast for Indoor Stadium in K.Karunakaran Memorial Sports Academy which has been named in the name of former Minister Sri.K.Karunakaran. The mere fact that the Indoor Stadium is named as K.Karunakaran Memorial Sports Academy does not indicate that the said stadium is a memorial or memorial building as prohibited by the Government Order. The prohibition in the Government Order as mentioned above does not prohibit the construction of compound wall and high mast for the Indoor Stadium. Mere naming of an Indoor Stadium as K.Karunakaran Memorial Sports Academy does not bring prohibition as mentioned in the Government Order and it is not applicable with regard to the project which has been sanctioned to the work in question. Mere naming of an Indoor Stadium does not make memorial or memorial building.

We thus are of the view that there is no ground to entertain this Public Interest Litigation. Accordingly, the Writ Petition is dismissed.

**Ashok Bhushan,
Chief Justice.**

**A.M. Shaffique,
Judge.**