

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

THURSDAY, THE 8TH DAY OF OCTOBER 2015/16TH ASWINA, 1937

WP(C).No. 27944 of 2015 (P)

PETITIONER:

**KOTTAKKAL CO-OPERATIVE HOSPITAL LTD. NO.M.594.,
P.O KOTTAKKAL, MALAPPURAM DISTRICT, PIN-676 503,
REPRESENTED BY ITS CHAIRMAN, P.MOIDEEN HAJI,
S/O.PAROLI MOIDU HAJI, AGED 56 YEARS, PAROLI,
MYTHREE NAGAR, KOTTAKKAL P.O,
MALAPPURAM DISTRICT.**

**BY ADVS.SRI.K.P.SUDHEER
SRI.ARUN MATHEW VADAKKAN**

RESPONDENT(S):

- 1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF AGRICULTURE, SECRETARIAT,
THIRUVANANTHAPURAM-695 001.**
- 2. THE AGRICULTURAL PRODUCTION COMMISSIONER,
AGRICULTURE (NCA) DEPARTMENT,
THIRUVANANTHAPURAM.**
- 3. THE DISTRICT COLLECTOR,
MALAPPURAM-676 505.**
- 4. THE LOCAL LEVEL MONITORING COMMITTEE,
KOTTAKKAL MUNICIPALITY,
REPRESENTED BY ITS CONVENOR,
THE AGRICULTURAL OFFICER, KRISHI BHAVAN,
P.O KOTTAKKAL, MALAPPURAM DISTRICT, PIN-676 503.**

BY ADDL. ADVOCATE GENERAL SRI.K.A.JALEEL

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 08-10-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS:

- P1 : TRUE COPY OF SALE DEED REGISTERED AS DOCUMENT NO.502/2006 DATED 17-2-2006 OF KOTTAKKAL SRO.
- P2 : TRUE COPY OF AUDIT CERTIFICATE AND AUDIT MEMORANDUM OF THE CO-OPERATIVE DEPARTMENT DATED 27-4-2011.
- P3 : TRUE COPY OF APPLICATION SUBMITTED BY THE PETITIONER SOCIETY BEFORE THE 4TH RESPONDENT DATED 25-1-2013.
- P4 : TRUE COPY OF PROCEEDINGS OF THE 4TH RESPONDENT.
- P5 : TRUE COPY OF GO(RT)NO.454/2014/AGRI. DATED 6-3-2014 ISSUED BY THE 2ND RESPONDENT.
- P6 : TRUE COPY OF REPRESENTATION DATED 30-1-2014 SUBMITTED BY THE PETITIONER BEFORE THE HON'BLE MINISTER OF AGRICULTURE.
- P7 : TRUE COPY OF REPRESENTATION DATED 5-2-2014 SUBMITTED BY THE PETITIONER BEFORE THE HON'BLE MINISTER OF CO-OPERATION.
- P8 : TRUE COPY OF REPORT DATED 17-5-2014 OF THE JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES, MALAPPURAM TO THE REGISTRAR OF CO-OPERATIVE SOCIETIES.
- P9 : TRUE COPY OF THE ORDER DATED 21-1-2012 ISSUED BY THE 1ST RESPONDENT TO THE TIRUR CO-OPERATIVE HOSPITAL AND RESEARCH CENTRE LIMITED ALONG WITH THE COVERING LETTER OF THE MINISTER.
- P10 : TRUE COPY OF REPRESENTATION SUBMITTED BY THE PETITIONER TO THE HON'BLE MINISTER FOR INDUSTRIES, INFORMATION AND TECHNOLOGY DATED 22-4-2015.
- P11 : TRUE COPY OF THE COMMUNICATION DATED 27-4-2015 ISSUED FROM THE OFFICE OF THE MINISTER FOR INDUSTRIES TO THE MINISTER FOR AGRICULTURE.
- P12 : TRUE COPY OF APPLICATION SUBMITTED BY THE PETITIONER BEFORE THE 1ST RESPONDENT.
- P13 : TRUE COPY OF GO(RT)NO.50/2013/CO-OP. DT 29-1-2013 ISSUED BY CO-OPERATION(B) DEPARTMENT, GOVERNMENT OF KERALA.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

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A.MUHAMED MUSTAQUE, J.

W.P(C)No. 27944 of 2015

Dated this the 8th day of October, 2015

J U D G M E N T

Petitioner is a co-operative hospital. Petitioner approached this Court challenging the order of the Government declining the request of the petitioner to reclaim the land included in the draft data bank under Act 28 of 2008, stating that the establishment of the hospital is not for public purpose, as per the Act. According to the petitioner, the hospital is to cater the requirement of public, at large and it would come within the scheme of public purpose as contemplated under the Act. Petitioner submits that it is a co-operative society and it is formed for the welfare of the public in the area to provide a service in health sector at very low cost. Therefore, it is submitted that public purpose is to be determined with respect to the object of the service other than determination by the character of the society. Petitioner also points out the decision of the Government

in Ext.P9. Ext.P9 wherein Government granted permission to Tirur Co-operative hospital invoking the powers under Act 28 of 2008.

2. In the light of Ext.P9 decision of the Government, this Court is of the view that Ext.P5 has to be reconsidered. Accordingly, Ext.P5 is set aside. Government shall take appropriate decision, after adverting to the nature and discharge of function of the petitioner's society and also in the light of Ext.P9 order, within a period of two months from the date of receipt of a copy of this judgment. It is to be noted that the Government also provided necessary financial assistance, that means Government has taken note of the public nature of the activities of the petitioner.

This writ petition is disposed of as above.

Sd/-
A.MUHAMED MUSTAQUE,
Judge

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WP(C).NO.27944 OF 2015

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