

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 19TH DAY OF AUGUST 2015/28TH SRAVANA, 1937

WP(C).No. 32764 of 2010 (U)

PETITIONER :

**KRISHNAKUMAR, S/O. LATE RAGHAVAN,
AGED 41 YEARS, VADAKKETHOPPIL, KARIKKODE
THODUPUZHA EAST P.O., THODUPUZHA.**

BY ADV. SRI.K.R.SUNIL

RESPONDENTS :

- 1. THE THODUPUZHA MUNICIPALITY,
REP. BY ITS SECRETARY, THODUPUZHA, PIN-685 584.**
- 2. THE ASSISTANT EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT(ROADS), SUB DIVISION,
THODUPUZHA, PIN-685 584.**

R1 BY ADV. SRI.P.K.SOYUZ

R2 BY GOVERNMENT PLEADER SMT. ANITHA RAVEENDRAN

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19-08-2015, THE COURT ON THE SAME DAY DELIVERED
THE FOLLOWING:**

bp

WP(C).No. 32764 of 2010 (U)

APPENDIX

PETITIONER'S EXHIBITS :

- P1: COPY OF THE LICENSE ISSUED BY THE R1 VALID UP TO 31.3.2010.
- P2: COPY OF THE RECEIPT ISSUED BY THE R1 DT 12/3/2010 VALID UP TO 31/3/2011.
- P3: COPY OF THE LETTER DT 22/9/2010 ISSUED BY THE R2.
- P4: COPY OF THE ORDER DT 15/9/2010 ISSUED BY THE R1.
- P5: COPY OF THE ORDER IN IA NO. 1156 OF 2010 IN APPEAL NO. 850 OF 2010 OF THE TRIBUNAL FOR LOCAL SELF GOVERNMENT INSTITUTIONS.
- P6: COPY OF NOTICE ISSUED BY R1.

RESPONDENT'S EXHIBITS : NIL.

//TRUE COPY//

P.A. TO JUDGE

bp

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.32764 of 2010

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Dated this the 19th day of August, 2015

JUDGMENT

The petitioner is seeking a direction to quash Ext.P6 stop memo issued by the respondent municipality.

2. The petitioner is conducting a Ayurvedic Medical Shop having licence up to 31.3.2011 as evident from Ext.P2. The first respondent as a retaliation to Ext.P4 issued Ext.P6 which is contrary to Ext.P2. The petitioner alleges that he is having all valid permits for the conduct of his medical shop and the issue of Ext.P6 is per se illegal, unwarranted and maladministration of service. Aggrieved by the same, the petitioner has approached this Court.

3. In the counter affidavit filed by the respondent municipality, they have averred that the petitioner had demolished a portion of the building and thereafter he reconstructed the same without valid permission from the respondent municipality. Therefore, according to the respondent, the petitioner is not entitled to the D&O licence renewed.

4. Arguments have been heard.

5. The learned counsel for the petitioner would submit that as

the portion of the petitioner's property was acquired for the purpose of widening the road in front of his property, he has voluntarily surrendered a portion of the property. and consequently he had to demolish the front portion of the shop room. Subsequently he had applied before the respondent municipality for permission to reconstruct the shop room. However, the same has not been considered by the respondent.

6. As the petitioner's application was not considered and disposed of within a time frame, the petitioner proceeded with the construction and at that point of time, the respondent municipality has issued notice asking the petitioner to demolish the reconstruction. The matter was taken in appeal before the Tribunal for Local Self Government which issued an interim order and ultimately, the appeal was disposed of directing the respondent municipality to number the building. The petitioner alleges that even after a lapse of so many months, no action has been taken by the respondent municipality.

7. It is open to the petitioner to pursue his remedy for the inaction on the part of the respondent municipality for not numbering the building which is reconstructed. As the petitioner was continuing his Ayurvedic Medical Shop in the building on the

basis of valid permit and the renewal was denied for the reasons which were not within the control of the petitioner, this Court is of the view that Ext.P6 need not be allowed to stand.

In the result, the writ petition is disposed of quashing Ext.P6. As the petitioner is continuing his medical shop, it shall be open to him to get his licence renewed periodically by submitting proper application before the respondents.

Sd/-
A.V.RAMAKRISHNA PILLAI
JUDGE

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