

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

MONDAY, THE 10TH DAY OF AUGUST 2015/19TH SRAVANA, 1937

WP(C).No. 32985 of 2010 (W)

PETITIONER(S):

1. STEPHY ELIAS,
S/O.ELIAS, OLATTUPURAM HOUSE, CHATHEDAM,
THURUTHIPURAM P.O., PIN-680 667.
2. P.C.JOSEPH, PAYYAPPILLY HOUSE,
THURUTHIPPURAM-680 667.
3. MATHAPPAN JOSEPH,
S/O.MATHAPPAN, KALARITHARA HOUSE,
THURUTHIPPURAM-680 667.
4. GEORGE,
S/O.THOMAS, KURIAPPILLI HOUSE, THURUTHIPPURAM-680 667.
5. RAPPAKUTTY HILARI,
S/O.RAPPAKUTTY, OLATTUPURAM HOUSE, CHATHEDAM,
THURUTHIPPURAM-680 667.

**BY ADVS.SRI.SAIBY JOSE KIDANGOOR
SRI.M.V.SASIDHARAN**

RESPONDENT(S):

1. STATE OF KERALA,
REP. BY ITS SECRETARY,
DEPARTMENT OF LOCAL SELF GOVERNMENT,
THIRUVANANTHAPURAM, PIN - 695 001.
2. PUTHANVELIKKARA GRAMA PANCHAYATH,
REP. BY ITS SECRETARY, PUTHANVELIKKARA, PIN 696 586.
3. TOWER VISION INDIA PVT. LTD.,
IST FLOOR, MUSCUT TOWERS, S.A.ROAD,
KADAVANTHRA, ERNAKULAM, REP. BY THE MANAGER (LEGAL),
MR.PRAMOD JAIJI.

**R3 BY ADVS. SRI.SATHISH NINAN
SRI.SANTHOSH MATHEW
SRI.ARUN THOMAS
SRI.JENNIS STEPHEN**

**R2 BY ADVS. SRI.V.A.MUHAMMED
SRI.V.K.GOPALAKRISHNAN**

**R1 BY GOVERNMENT PLEADER SMT.ANITHA RAVEENDRAN
R1 & R3 BY ADV. SRI.SANTHOSH MATHEW**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON
10-08-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

msv/

APPENDIX

PETITIONER(S)' EXHIBITS:

**EXT.P1: TRUE COPY OF THE DECISION TAKEN BY THE 2ND RESPONDENT
DTD.6.8.2010.**

**EXT.P2: TRUE COPY OF THE ORDER NO.3802 DTD.6.8.2010 ISSUED BY THE
2ND RESPONDENT.**

EXT.P3: TRUE COPY OF THE ORDER IN APPEAL NO.791/2010 DTD.30.9.2010.

EXT.P4: TRUE COPY OF THE CIRCULAR NO.2750(2)/R D.2/09/LSGD DTD.10.8.2009.

**EXT.P5: TRUE COPY OF THE COMPLAINT PREFERRED BY THE PETITIONER AND
OTHERS.**

RESPONDENT(S)' EXHIBITS:

NIL

//TRUE COPY//

P.A.TO JUDGE.

Msv/

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.32985 of 2010

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Dated this the 10th day of August, 2015

JUDGMENT

Under challenge in this writ petition is the appellate order passed by the Tribunal for Local Self Government Institutions in Appeal No.791 of 2010 filed by the third respondent.

2. The petitioners are aggrieved by the order passed by the Tribunal in the above appeal which was preferred by the third respondent challenging the order of rejection of licence application issued by the respondent panchayat. The people of the locality, knowing that steps are taken by the respondent panchayat for granting licence to the third respondent, preferred complaints against the proposed installation of Tele Communication Tower in the midst of thickly populated area.

3. Based on the applications submitted by the petitioners and after considering the other issues related to the matter, the respondent panchayat has rejected the application submitted by the third respondent. Against that, the third respondent preferred an appeal without making the petitioners are respondents. The appeal was allowed by the Tribunal. It is with this background, the petitioners have approached this Court.

4. I have heard the learned counsel for the petitioners, the learned standing counsel for the respondent panchayat and the learned counsel for the third respondent.

5. It appears from the impugned order that the decision of the respondent panchayat and the consequential order dated 6.8.2010 were set aside by the Tribunal. This Court in **Antony K. P and Another** v. **Chellanam Grama Panchayat and Others** [2009 (3) KHC 331] has observed that the powers of the Tribunal are not limited to examine the correctness of the impugned order but are also wide enough to examine the correctness of and to annul any order or action of the Local Self Government Institution based on which the impugned order was passed. It was also observed that if the Secretary of the respondent panchayat exercises its powers within the four corners of the statute, then the panchayat committee cannot interfere with it.

6. It was taking into account all the relevant facts and circumstances of the case, that the learned Tribunal has interfered with the orders passed by the respondent panchayat. If the petitioner has any grievance against the installation of the mobile tower by the third respondent, he can approach the Telecomm Committee by appropriate proceedings.

As this Court feels that there is no scope for interfering with the impugned order, the writ petition is dismissed.

sd/-

A.V.RAMAKRISHNA PILLAI
JUDGE

krj