

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

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

MONDAY, THE 28TH DAY OF SEPTEMBER 2015/6TH ASWINA, 1937

WP(C).No. 29287 of 2015 (S)

PETITIONER:

**SALIM KASSIM, INA INDUSTRIES,
INDUSTRIAL ESTATE, CHULLIMANOR.P.O.,
NEDUMANGAD, THIRUVANANTHAPURAM.**

BY ADV. SRI.BASANT BALAJI

RESPONDENT(S):

- 1. STATE OF KERALA, REP. BY
THE SECRETARY TO GOVERNMENT,
AGRICULTURE DEPARTMENT,
GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
- 2. THE DIRECTOR OF AGRICULTURE, VIKAS BHAVAN,
THIRUVANANTHAPURAM - 695 001.**
- 3. THE SUPERINTENDENT, DISTRICT AGRICULTURE FARM,
PERINGALAMALA, PALODE,
THIRUVANANTHAPURAM - 695 061.**

BY SENIOR GOVERNMENT PLEADER SRI.C.R.SYAMKUMAR

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 28-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONERS' EXHIBITS:

- EXT. P1 :** TRUE COPY OF THE E-TENDER DETAILS DOWNLOADED FOR THE WEBSITE OF THE GOVERNMENT OF KERALA.
- EXT. P2 :** TRUE COPY OF THE SCHEDULE OF WORK ATTACHED TO THE TENDER NOTIFICATION.
- EXT. P3 :** TRUE COPY OF THE REPRESENTATION DATED 16.8.2015 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.
- EXT. P3(A) :** TRUE COPY OF THE ENGLISH TRANSLATION OF EXT. P3.
- EXT. P4 :** PHOTOGRAPH OF THE FENCING AT BANANA FARM.
- EXT. P5 :** TRUE COPY OF THE JUMBO FENCING DESIGNED BY THE PETITIONER.

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

ASHOK BHUSHAN, CJ

&

A.M.SHAFFIQUE, J.

W.P.C.No.29287 of 2015

Dated this the 28th day of September 2015

J U D G M E N T

Shaffique, J

Petitioner has filed this writ petition in the form of a public interest litigation seeking the following reliefs:

“1) That all records leading to Ext.P1 and P2 be called to this Hon'ble Court and a Writ of Certiorari or other writ order or direction be passed quashing the same.

2) Issue a Writ of Mandamus or any other appropriate Writ, Order of Direction, commanding the respondents to re tender the work for providing chain link fencing along the boundary of District Agriculture Farm, Peringamala, Thiruvnanthapuram with a design which will withstand the attack of wild elephants after conducting a detailed study.”

2. Petitioner submits that respondent authorities are using unscientific method for providing chain link fencing from the attack of wild elephants along the boundary of District Agriculture Farm (DAF), Peringamala, Thiruvananthapuram. It is stated that

earlier also several attempts had been made to put up fencing which were not useful and the present attempt by inviting tenders is only for the purpose of spending money whereas the fencing, that is proposed, will not be suitable for the intended purpose. Petitioner submits that the design of the fencing has been made without conducting a proper study in the matter. It is also stated that the petitioner has appraised the authorities concerned and helped them to make a new design which was submitted by the petitioner earlier and then the Government should call for e-tenders based on such design so that there will be effective solution to the problem faced by the farm.

Having heard the learned counsel for the petitioner and the learned Government Pleader and having perused the records, we do not think that the issue projected by the petitioner can be decided in a public interest litigation. Governmental authorities have called for e-tenders for putting up certain fencing. The requirement of fencing, the manner in which fencing have to be constructed are all matters which do not come in the realm of jurisdiction in the public interest litigation and this Court cannot sit in judgment in deciding the issue. Petitioner has given Ext.P3

representation to the Director of Agriculture suggesting certain measures and it is for the authority to consider such representation. We cannot direct such authority to rely upon the representation given by the petitioner and to take a decision in the matter.

Having regard to the aforesaid factual situation, we do not think that any direction, as sought for by the petitioner, can be granted in this public interest litigation. Accordingly, this writ petition is dismissed.

(sd/-)
(ASHOK BHUSHAN, CHIEF JUSTICE)

(sd/-)
(A.M.SHAFFIQUE, JUDGE)

jsr/29/09/2015

