

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 30TH DAY OF SEPTEMBER 2015/8TH ASWINA, 1937

WP(C).No. 29404 of 2015 (A)

PETITIONER:

N.R.USHAKUMARI, W/O. GOPI, AGED 40 YEARS,
RESIDING AT KANNADI, THAREKKAD, PALAKKAD.

BY ADVS.SRI.S.KANNAN
SMT.K.S.SANGEETHA
SMT.S.SIMY

RESPONDENT:

PALAKKAD MUNICIPALITY, REPRESENTED BY ITS SECRETARY,
MUNICIPAL OFFICE, PALAKKAD - 678 001.

BY SRI.T.C.SURESH MENON

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-09-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

A P P E N D I X

PETITIONER'S EXHIBITS:

- EXT. P1 : COPY OF LICENCE ISSUED BY THE RESPONDENT UNDER SECTION 447 OF KERALA MUNICIPALITY ACT, 1994 IN FAVOUR OF THE PETITIONER.
- EXT. P2 : COPY OF REGISTRATION CERTIFICATE ISSUED BY COMMISSIONERATE OF FOOD SAFETY.
- EXT. P3 : COPY OF COMMON ORDER DTD.3.6.15 IN I.A.Nos.112/2015 AND 479/15 IN O.S.25/15 PASSED BY ADDITIONAL MUNSIF COURT, PALAKKAD.
- EXT. P4 : COPY OF APPLICATION SUBMITTED BY PETITIONER BEFORE RESPONDENT DATED 15.7.15.

RESPONDENT'S EXHIBITS: NIL.

// True Copy //

P.A to Judge.

smp

P.BHAVADASAN, J.

Writ Petition (Civil) No.29404 OF 2015

Dated this the 30th day of September, 2015.

J U D G M E N T

The grievance of the petitioner is that she had been running a canteen in the Government Moyan Model Higher Secondary School, Palakkad in pursuance to an irrevocable licence agreement executed on 01.12.1997 between the petitioner and the school authorities and since then she has been conducting the canteen and currently Rs.800/- per month is being paid as licence fee.

2. The petitioner points out that on an application preferred by her, Ext.P1 licence was issued by the Municipality under Section 447 of the Kerala Municipality Act. Copy of the registration certificate issued by the Commissionerate of Food Safety is produced as Ext.P2. Certain difficulties faced by the petitioner due to the adamant attitude adopted by the Headmistress of the School are mentioned in the petition which are not relevant for the purpose of disposal of this matter.

Suffice to say that the petitioner has filed a suit as O.S.No.25/2015 before the Additional Munsiff Court, Palakkad in which an interim order was passed which is produced as Ext.P3. Since the period of licence has expired, petitioner preferred Ext.P4 application before the respondent on 15.07.2015.

3. The petitioner points out that Ext.P4 application has not been considered so far and going by Section 447(6) of the Kerala Municipality Act, if no order in an application for licence is communicated to the petitioner within 30 days, she will be deemed to have been granted licence. The petitioner points out that there may be a direction to the respondent to consider her application on merits and in the meanwhile permit her to run the canteen on the basis of the deeming provision contained in Section 447(6) of Kerala Municipality Act.

4. After having heard the learned counsel on both sides, the prayer made by the petitioner seems be a reasonable one.

This writ petition is disposed of directing the respondent to dispose of Ext.P4 application filed by the petitioner strictly in accordance with law within a period of 15 days from the date of

receipt of a copy of this judgment. In the meanwhile, by virtue of Section 447(6) of Kerala Municipality Act, the petitioner is permitted to run the canteen as before till further orders are issued in that regard.

**P.BHAVADASAN
JUDGE**

smp