

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).NO. 30131 OF 2014 (N)

PETITIONER(S):

**RAJEEV JOSEPH, AGED 41 YEARS
S/O.LATE OUSEPH THECKENATH HOUSE, ATHANI P.O.
ERNAKULAM DISTRICT, KERALA-683 585.**

**BY ADVS.SRI.P.A.AUGUSTIAN
SRI.M.A.BABY**

RESPONDENT(S):

- 1. STATE OF KERALA
REPRESENTED BY THE SECRETARY, MINISTRY FOR FISHERIES
PORTS AND EXCISE, GOVERNMENT SECRETARIAT
THIRUVANANTHAPURAM-695 001.**
- 2. THE COCHIN INTERNATIONAL AIRPORT LTD
NEDUMBASSERY, KOCHI AIRPORT P.O., ERNAKULAM
KERALA-683 111.**
- 3. TAXI OPERATORS CO-OPERATIVE SOCIETY LTD
COCHIN INTERNATIONAL AIRPORT LTD., NEDUMBASSERY
KOCHI AIRPORT P.O., ERNAKULAM, KERALA-683 111
REPRESENTED BY ITS SECRETARY.**
- 4. SMT. LEENA CHANDI
KALLUPARAMBIL HOUSE, MEKAVU, VAPPALASSERY P.O.
ERNAKULAM DISTRICT-683 572.**
- 5. BITHA JACOB, AGED 36 YEARS
W/O.JACOB CHANDY, KALLUPARAMBIL HOUSE, MEKAVU
VAPPALASSERY P.O., ERNAKULAM DISTRICT-683 572.**

**R1 BY SR. GOVERNMENT PLEADER SRI. ABDUL SALAM
R2 BY SRI.M.GOPIKRISHNAN NAMBIAR, SC, CIAL
R2 BY ADV. SRI.P.GOPINATH
R2 BY ADV. SRI.P.BENNY THOMAS
R2 BY ADV. SRI.K.JOHN MATHAI
R2 BY ADV. SRI.JOSON MANAVALAN
R2 BY ADV. SRI.KURYAN THOMAS
R4 & 5 BY ADV. SRI.SHAJI P.CHALY
R4 & 5 BY ADV. SRI.R.SANJITH
R BY SRI.S.SUJIN**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 09-02-2015,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

WP(C).NO. 30131 OF 2014 (N)

APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1. TRUE COPY OF THE IDENTITY CARD NO.22 DATED 15/12/1999.**
- EXT.P2. TRUE COPY OF THE NEW VEHICLE PASS**
- EXT.P3. TRUE COPY OF THE WELFARE FUND RECEIPTS**
- EXT.P4. TRUE COPY OF THE REPRESENTATION DATED 5/10/2013.**
- EXT.P5. TRUE COPY OF THE RTI APPLICATION WITH REPLY**
- EXT.P6. TRUE COPY OF THE LETTER DATED 13/10/2013.**
- EXT.P7. TRUE COPY OF THE LOAN ACCOUNT MAINTAINED WITH FEDERAL BANK LTD, NEDUMBASSERY.**
- EXT.P8. TRUE COPY OF THE JUDGMENT IN WPC NO.28237/2013 DATED 4/7/2014.**
- EXT.P9. TRUE COPY OF THE LETTER DATED 17/7/2014.**
- EXT.P10. TRUE COPY OF THE LETTER DATED 14/8/2014.**
- EXT.P11. TRUE COPY OF THE LETTER OF THE RESPONDENT NO.2 DATED 16/8/2014.**
- EXT.P12. TRUE COPY OF ORDER OF THE RESPONDENT NO.2 DATED 1/9/2014.**

RESPONDENT(S)' EXHIBITS

OKB

TRUE COPY

P.A. TO JUDGE

K.HARILAL, J.

W.P(C). No.30131 of 2014

Dated this the 9th day of February, 2015

JUDGMENT

The petitioner is a taxi driver, who had obtained a permit to operate taxi service at the Cochin International Airport Limited (CIAL) at Nedumbassery under the scheme introduced for the welfare of the evictees under land acquisition proceedings. According to him, he has obtained the said permit on the basis of the consent granted by the 4th respondent, who is the land owner from whom some property was acquired for the construction of the airport. He had been operating the taxi service under the permit since 1999. While so, the 2nd respondent suspended the permit on the basis of a complaint filed by the respondents 4 and 5 alleging that the said permit had been obtained fraudulently without their knowledge or consent. The petitioner approached this Court invoking jurisdiction under Article 226 of the Constitution of India, by filing W.P(C) No.28237/2013 seeking a direction to the 2nd respondent to revoke the suspension of permit. After hearing the petitioner and respondents 4 and 5, this Court directed the 2nd

respondent to conduct a detailed enquiry and pass an order afresh after affording an opportunity of being heard to both parties, at any rate, within a period of two months from the date of the judgment. In compliance with the said direction, the 2nd respondent conducted a detailed enquiry and, after hearing all the parties, passed Ext.P12 order cancelling the permit. The legality and propriety of the findings whereby the 2nd respondent cancelled the petitioner's permit are under challenge in this writ petition.

2. Heard the learned counsel for the the petitioner and the learned counsel appearing for the respondents 4 and 5 and also the learned Government Pleader.

3. The learned counsel for the petitioner advanced arguments challenging the reasonings whereby the 2nd respondent cancelled the permit. According to him, the 2nd respondent failed to consider the documents produced by the petitioner in its correct perspective. The allegations which led to the passing of Ext.P12 order are based on the letter allegedly sent by the 4th respondent. The petitioner's permit was cancelled only due to mala fide intention to protect the vested interest of the 4th respondent and it was so made in detrimental to the rights and interest acquired by the petitioner under the consent granted by

the 4th respondent in the year 1999. As per information received from the father of the petitioner, there was an agreement for purchase of said land and some amount was given to the 4th respondent. But the 2nd respondent has not considered the legal effect and validity of the said agreement entered into between the petitioner and the 4th respondent. According to the learned counsel, the reasonings are arbitrary, unreasonable and liable to be interfered with invoking jurisdiction under Article 226 of the Constitution.

4. Per contra, the learned counsel for the 4th respondent opposed the said arguments, by drawing my attention to the relevant findings in Ext.P12 order. He advanced arguments to justify the findings whereby the 2nd respondent cancelled the permit.

5. In view of the rival submissions at the Bar, the question that arises for consideration is whether there is any illegality or procedural irregularity in the proceedings initiated pursuant to the direction of this Court in Ext.P8 judgment.

6. An enquiry was conducted on the basis of the direction issued by this Court and all the parties were given opportunities to substantiate their contentions. Going by the impugned order, it is seen that both parties were given sufficient opportunities to

produce documentary evidence to substantiate their rival contentions.

7. It is the case of the petitioner that the taxi permit was issued in the year 1999 on the basis of a consent letter issued by the 4th respondent agreeing to grant the benefits under the scheme to the petitioner. At the same time, he admitted that he is not a relative of the 4th respondent. But, according to the scheme, the benefit under the scheme could not be transferred to anybody except close relatives/legal heirs, for their livelihood, if the evictee cannot directly avail the benefit. When the documents were submitted for taxi permit under the scheme, the petitioner claimed that he was closely related to the 4th respondent. In view of his own admission that he is not related to the 4th respondent, needless to say, actually, he was not entitled to get the benefit provided under the scheme. The consent letter said to have been issued by the 4th respondent was also produced in the enquiry and the same was disputed by the 4th respondent. After comparing the signature of the 4th respondent in the consent letter with her admitted signature in the documents produced by the petitioner the 2nd respondent observed that it differs from the admitted signature of the 4th respondent in other documents. Therefore, no reliance can be placed on the consent letter produced by the

petitioner before the 2nd respondent at the time when he obtained the privilege of operating taxi permit under the scheme. Though the petitioner contended that there was an agreement for sale with the father of the petitioner with respect to the acquired property, no document had been produced to substantiate the said claim.

8. As rightly observed by the 2nd respondent, a benefit under a corporate social responsibility scheme is not transferrable to an outsider with or without consideration, since it will hamper the purpose and spirit of the scheme itself. This Court under Article 226 of the Constitution of India is not concerned with decision, but concerned with decision making process only. Unless any kind of mala fides is substantiated in the decision making process, there is no scope for interference under Article 226 of the Constitution of India.

Consequently, this writ petition is dismissed.

Sd/-
(K.HARILAL, JUDGE)

okb.