

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 30TH DAY OF NOVEMBER 2015/9TH AGRAHAYANA, 1937

WP(C).No. 36093 of 2015 (S)

PETITIONER(S):

1. **C.R.DAMODARAN NAIR,
CHERUVATHOOR HOUSE, ONAKKOOR.P.O.,
(VIA) PAMPAKUDA, ERNAKULAM DISTRICT, PIN - 686 667.**
2. **M.V.MATHEW,
MANJANAKUZHIL, KAKKAD.P.O., PIRAVOM,
ERNAKULAM DISTRICT, PIN - 686 664.**
3. **M.K. DANIEL,
MUTHIRAKKALYIL, KAKKAD.P.O., PIRAVOM,
ERNAKULAM DISTRICT, PIN - 686 664.**

**BY SRI.ABRAHAM VAKKANAL,SENIOR ADVOCATE
ADVS. SRI.PAUL ABRAHAM VAKKANAL
SRI.DIJO SEBASTIAN
SMT.VINEETHA SUSAN THOMAS**

RESPONDENT(S):

1. **THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
PUBLIC WORKS DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM - 695 001.**
2. **THE CHIEF ENGINEER , PWD (ROADS & BRIDGES),
PUBLIC OFFICE, MUSEUM.P.O., THIRUVANANTHAPURAM DISTRICT,
PIN - 695 033.**
3. **THE EXECUTIVE ENGINEER,
PWD (ROADS DIVISION), MOOVATTUPUZHA,
ERNAKULAM DISTRICT, PIN - 686 671.**

BY STATE ATTORNEY SRI.P.VIJAYARAGHAVAN

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 30-11-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

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APPENDIX

PETITIONER(S)' EXHIBITS

- EXT.P1: TRUE COPY OF THE RESOLUTION DATED 20.07.2011.
- EXT.P1.(A): TRUE COPY OF THE ENGLISH TRANSLATION OF RESOLUTION DTD. 20.07.2011.
- EXT.P1(B): TRUE COPY OF THE NOTE NO.596/PVM/011/M(FCS& R) DTD. 24.08.2011.
- EXT.P2: TRUE COPY OF THE RESOLUTION DTD. 18.08.2011.
- EXT.P2.(A): TRUE COPY OF THE ENGLISH TRANSLATION OF RESOLUTION DTD. 18.08.2011.
- EXT.P3: TRUE COPY OF THE COMBINED REPRESENTATION OF THE LOCAL BODIES DTD. 25.08.2011.
- EXT.P3.(A): TRUE COPY OF THE ENGLISH TRANSLATION OF COMBINED REPRESENTATION DTD. 25.08.2011.
- EXT.P4: TRUE COPY OF THE LETTER DTD. 25.06.2012.
- EXT.P4.(A): TRUE COPY OF THE ENGLISH TRANSLATION OF LETTER DTD. 25.06.2012.
- EXT.P5: TRUE COPY OF THE REPRESENTATION DTD. 03.07.2012.
- EXT.P5.(A): TRUE COPY OF THE ENGLISH TRANSLATION OF REPRESENTATION DTD. 03.07.2012.
- EXT.P6: TRUE COPY OF THE WRITE UP IN MATHRUBHOOMI DTD. 10.07.2013.
- EXT.P6(A): TRUE COPY OF THE ENGLISH TRANSLATION OF WRITE UP IN MATHRUBHUMI DATED 10.07.2013.
- EXT.P7: TRUE COPY OF THE PETITION BEFORE THE MINISTER FOR FOODS AND CIVIL SUPPLIES DTD. 25.07.2013.
- EXT.P7(A): TRUE COPY OF THE ENGLISH TRANSLATION OF PETITION DTD. 25.07.2013.
- EXT.P8: TRUE COPY OF THE PETITION BEFORE THE CHIEF MINISTERS PEOPLE MASS CONTACT PROGRAMME DTD. 22.10.2013.
- EXT.P8.(A): TRUE COPY OF THE ENGLISH TRANSLATION OF PETITION DTD. 22.10.2013.

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EXT.P9: TRUE COPY OF THE PETITION DTD. 23.10.2013.

EXT.P9.(A): TRUE COPY OF THE ENGLISH TRANSLATION OF PETITION DTD. 23.10.2013.

EXT.P10: TRUE COPY OF THE LETTER DTD. 26.06.2014.

EXT.P11: TRUE COPY OF THE DETAILED PROJECT REPORT DTD. 23.05.2014.

EXT.P11.(A): TRUE COPY OF THE ROAD MAP DTD. NIL.

EXT.P11.(B): TRUE COPY OF THE LETTER DTD 09.11.2015.

EXT.P11(C): TRUE COPY OF THE ENGLISH TRANSLATION OF LETTER DTD. 09.11.2015.

EXT.P12: TRUE COPY OF THE REPORT APPEARED IN MANORAMA DTD. 31.12.2014.

EXT.P12(A): TRUE COPY OF THE ENGLISH TRANSLATION OF REPORT APPEARED IN MALAYALA MANORAMA DTD. 31.12.2014.

EXT.P13: TRUE COPY OF THE MASS PETITION DTD. 05.06.2015.

EXT.P13.(A): TRUE COPY OF THE ENGLISH TRANSLATION OF MASS PETITION DTD. 05.06.2015.

EXT.P14: TRUE COPY OF THE RESOLUTION DTD. 22.06.2015.

EXT.P14(A): TRUE COPY OF THE ENGLISH TRANSLATION OF RESOLUTION DTD. 22.06.2015.

EXT.P15: TRUE COPY OF THE G.O.(RT).NO.1271/2015/PWD DTD. 01.09.2015.

EXT.P16: TRUE COPY OF THE PETITION DTD. 05.09.2015.

EXT.P16(A): TRUE COPY OF THE ENGLISH TRANSLATION OF PETITION DTD. 05.06.2015.

RESPONDENT(S)' EXHIBITS: NIL

/TRUE COPY/

P.A.TO JUDGE

**ASHOK BHUSHAN, C.J. &
A.M.SHAFFIQUE, J.**

W.P.(C)No.36093 of 2015

Dated this the 30th day of November, 2015.

J U D G M E N T

ASHOK BHUSHAN, C.J.

Heard the learned counsel for the petitioners and the learned State Attorney in the matter.

2. This public interest litigation has been filed praying the following reliefs :

"i. To issue a writ of certiorari or other appropriate writ or order or direction quashing Ext.P15 G.O. to the extend it has excluded land acquisition for widening the road and straight the curves, as proposed in Exhibit P11 detailed project report of the 2nd respondent.

ii. To issue a writ of mandamus or other appropriate writ, order or direction commanding the respondents to utilize the amounts sanctioned in Exhibit P15 only for the acquisition of the land for the above project of "improvements to Pandiyanpara - Maneed Road KM0/000 to 5/450" and not for surfacing works as stated in Exhibit P15.

iii. To issue a writ of mandamus or other appropriate writ, order or direction commanding the respondents to sanction the entire amounts for the above work viz: Rs.19 crores, as proposed in Exhibit P11 DPR, in order to avoid wastage of

public money.

iv. To declare that the respondents have to sanction the DPR in Exhibit P11 as such to ensure smooth flow of traffic through the said road and to avoid public wastage of money.

v. To grant such other reliefs which this Hon'ble Court may deem just and proper to be granted on the facts of the case, pending disposal of the W.P.(C)."

3. The petitioners' case in the writ petition is that at the request made by the grama panchayat, Ext.P11 project report was submitted, containing various works including the surfacing works and widening the road by straightening the curves. It is submitted that the total estimate as proposed by the PWD in its project report was Rs.19 crores. It is submitted that by Ext.P15 Government order dated 1.9.2015, the Government has only sanctioned the work for Rs.731 lakhs excluding land acquisition cost. It is submitted that, the order of the Government, sanctioning only a partial amount, will not serve the purpose. It is submitted that surfacing of the road will not serve the demands made by the petitioners and the Panchayat. It is submitted that the

Panchayat has already submitted a representation before the Government, Ext.P16 dated 5.9.2015.

4. We have heard the learned counsel for the petitioners and perused the records.

5. The issue, that while approving the project, the Government has sanctioned only partial amount for the works, ie., only Rs.7.31 crores instead of Rs.19 crores, cannot be taken as a subject coming under a 'public interest litigation'. To which extent the project is to be approved by the Government, is within the domain of the Government and whether the project report is to be accepted in full or partial is also within the domain of the Government. It is also made clear that, as to the selection of experts who had to examine the project report and take a decision, will also come under the discretion of the Government. The issues which are sought to be raised in the writ petition cannot be undertaken in a public interest litigation. We only observe that, it shall be open for the petitioners to raise their

grievances before the Government regarding the partial sanction by order dated 1.9.2015 and it is for the Government to look into the such issues and take appropriate decision.

With these observations, we close this writ petition.

Sd/-
ASHOK BHUSHAN,
CHIEF JUSTICE.

Sd/-
A.M.SHAFFIQUE,
JUDGE.

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//True copy//

P.A. to Judge