

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.HARILAL

THURSDAY, THE 3RD DAY OF DECEMBER 2015/12TH AGRAHAYANA, 1937

WP(C).No. 36553 of 2015 (T)

PETITIONER(S):

**K.SIVADASAN, AGED 84 YEARS,
O.KRISHNAN, KRISHNAPRIYA,
ALTHARAMOODU P.O., ALEMCODE,
THIRUVANANTHAPURAM-695102.**

**BY ADVS.SRI.C.P.UDAYABHANU
SRI.R.MANOJ
SRI.N.PRASANNAN**

RESPONDENT(S):

- 1. THE STATE OF KERALA,
REPRESENTED BY THE SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT,
STATE SECRETARIAT, THIRUVANANTHAPURAM-695001.**
- 2. THE NAGARoor GRAMA PANCHAYAT,
REPRESENTED BY ITS SECRETARY,
NAGARoor GRAMA PANCHAYAT, NAGARoor,
THIRUVANANTHAPURAM-695008.**
- 3. THE FINANCE COMMITTEE OF NAGARoor GRAMA PANCHAYAT,
REPRESENTED BY ITS CHAIRMAN,
NAGARoor GRAMA PANCHAYAT, NAGARoor-695008.**

BY SENIOR GOVERNMENT PLEADER SMT.K.A.SANJEETHA

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 03-12-2015, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

APPENDIX

PETITIONERS' EXHIBITS

- P1: COPY OF THE LETTER DATED 26/4/2007 ISSUED BY BSNL TO THE PETITIONER STATING THEIR INTENTION TO VACATE THE BUILDING**
- P1(A): COPY OF THE NOTICE DIRECTING THE PETITIONER TO TAKE POSSESSION OF THE BUILDING ISSUED BY BSNL**
- P2: COPY OF THE DEMAND NOTICE ISSUED TO THE PETITIONER DATED 11/3/13**
- P3: COPY OF RECEIPT ISSUED SHOWING ACCEPTANCE OF THE APPEAL BY THE NAGAROOR GRAMA PANCHAYATH DATED 21/3/13**
- P4: COPY OF THE DEMAND NOTICE ISSUED TO THE PETITIONER DATED 20/9/13**
- P5: COPY OF THE MEMORANDUM OF APPEAL SUBMITTED BY THE PETITIONER BEFORE THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT DATED 12/5/14**
- P6: COPY OF THE REPLY SUBMITTED BY THE SECRETARY OF THE NAGAROOR GRAMA PANCHAYAT BEFORE THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT INSTITUTIONS**
- P7: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY OF THE NAGAROOR GRAMA PANCHAYAT DATED 19/9/14**
- P8: COPY OF THE ORDERS PASSED THE OMBUDSMAN FOR LOCAL SELF GOVERNMENT DATED 8/10/14**
- P9: COPY OF THE COMMUNICATION ISSUED TO THE PETITIONER BY THE R2 DATED 6/1/15**
- P10: COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER BEFORE THE CHAIRMAN OF THE STANDING COMMITTEE FINANCE OF NAGAROOR GRAMA PANCHAYAT DATED 16/1/15**
- P11: COPY OF THE RECEIPT SHOWING ACCEPTANCE OF EXT.P10.**

RESPONDENTS' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

K.HARILAL, J.

W.P.(C) No.36553 of 2015

Dated this the 3rd day of December, 2015.

JUDGMENT

The petitioner is the owner of the buildings, bearing Nos.NPVIII/575 and 576 of Nagaroor Grama Panchayat in Thiruvananthapuram District. According to the petitioner, from 1.11.2000 to 18.2.2008 the buildings were leased out to the BSNL. Ext.P1 series are the letters issued by the BSNL, which would show that the BSNL vacated the buildings with effect from 16.5.2008. But, the respondent Panchayat issued Exts.P2 and P4 demand notices calling upon the petitioner to pay building tax from 2008 to 2014 and tax was calculated at that rate as if the buildings were occupied by the BSNL. Aggrieved by the rate of tax claimed from the petitioner, he filed an appeal before the standing committee. But, no orders were passed in this regard. Owing to inaction on the part of the standing committee, the petitioner preferred Ext.P5 petition before the Ombudsman for Local Self

Government and the Ombudsman, by Ext.P7, directed the Panchayat to pass orders on the representation filed by the petitioner, before the Panchayat, within a period of three months from the date of order. Thereafter, by Ext.P9, the petitioner was directed by the 2nd respondent to produce certificate from the BSNL regarding the date on which they vacated the property and to produce an affidavit by the petitioner that he had subsequently let out the buildings. Pursuant to Ext.P9, the petitioner filed Ext.Pl0 fresh appeal. He also complied with the directions in Ext.P9 by producing a copy of Ext.Pl and Ext.Pl(a). However, no positive orders have been passed so far, despite the specific direction issued by the Ombudsman for Local Self Government. This is the grievance highlighted in this writ petition.

2. Heard the learned counsel for the petitioner and the learned Government Pleader.

3. Having gone through the records produced along with the writ petition, it appears that despite the specific direction issued by the Ombudsman, the

statutory authority constituted under the Panchayat Raj Act, the respondents 2 and 3 have not passed the order as directed by the Ombudsman. It was obligatory on the part of the respondents 2 and 3 to obey the order or direction issued by the Ombudsman; but they failed to do so. I am of the opinion that the said circumstance warrants interference of this Court under Article 226 of the Constitution of India.

4. Hence the respondents 1 to 3 are directed to pass orders on Ext.P10, at the earliest, at any rate, within a period of one month from the date of receipt of a copy of this judgment, after affording an opportunity of being heard to the petitioner. In order to facilitate an early disposal of the matter, the petitioner shall produce a copy of this judgment along with a copy of the Memorandum of writ petition and all other exhibits before the said respondents.

This writ petition is disposed of accordingly.

K. HARILAL, JUDGE

okb.