IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 04TH DAY OF DECEMBER 2020 / 13TH AGRAHAYANA, 1942

WP(C).No.5539 OF 2020(N)

PETITIONER:

SOUTHERN ASSOCIATES, MADAKAMPOYIL P.O., PERINGOME, KANNUR-670 353, REPRESENTED BY ITS MANAGING PARTNER BINSU CHERIAN

BY ADVS.
SRI.K.I.MAYANKUTTY MATHER
SRI.R.JAIKRISHNA

RESPONDENTS:

1. **ASSISTANT DIVISIONAL OFFICER, OFFICE OF THE ASSISTANT DIVISIONAL OFFICER, FIRE AND RESCUE SERVICES, KANNUR .H.P.O., KANNUR-670 001**

2. **DISTRICT FIRE OFFICER, OFFICE OF THE DISTRICT FIRE OFFICER, FIRE AND RESCUE SERVICES, KANNUR .H.P.O., KANNUR-670 001**

3. **DIRECTOR GENERAL, FIRE AND RESCUE SERVICES HEAD QUARTERS, HOUSING BOARD JUNCTION, THIRUVANANTHAPURAM.G.P.O., THIRUVANANTHAPURAM-695 001,**

4. **PERINGOME-VAYAKKARA GRAMA PANCHAYATH, PERINGOME P.O., KANNUR -670 353, REPRESENTED BY ITS SECRETARY**

5 SECRETARY, PERINGOME-VAYAKKARA GRAMA PANCHAYATH, PERINGOME P.O., KANNUR -670 353,

R2 BY GOVERNMENT PLEADER

M R DHANIL GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04.12.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dated this the 4th day of December 2020

The petitioner had obtained a building permit from the Peringome – Vayakkara Grama Panchayat on 13.12.2016 to establish a stone crusher unit.

2. The building permit was issued in accordance with the Kerala Panchayat Building Rules, 2011.

3. The petitioner completed the construction of stone crusher unit and submitted the completion certificate. The Panchayat insisted the petitioner to produce the final fire No Objection Certificate (NOC) from the Fire and Rescue Department.

4. According to the petitioner, when they met the officials of the Fire and Rescue Department, they insisted the establishment of Wet Riser Fire fighting arrangement in the unit for the issuance of final fire NOC. The petitioner, in fact, installed a Down Comer Fire fighting arrangement instead of the Wet Riser. According to the

petitioner, Down Comer Fire fighting arrangement would satisfy the requirements of building rules as provided at the time of issuance of the building permit.

5. The petitioner is prepared to comply with all the requirements of law at the time of issuance of the building permit.

6. The petitioner referred to the National Building Code of India, 2016 produced as Ext.P6. As seen from Table 7, the covered area of the building beyond 500 m^2 and building height upto 1.5m, only required to establish a Down Comer. This building code was prevalent at the time of issuance of the building permit. It is the settled proportion of the law as held in **Desai Homes (M/s) v. Divisional Officer, Fire and Rescue Services and another [2017 (3) KHC 795] and T. Vijayalakshmi and Others v. Town Planning Member and Another [2006 KHC 1534]**, the holder of the building permit need to comply with only such provisions that is applicable at the time of issuing the building permit. Any change of law subsequently cannot be imposed on such holder of the building

permit.

7. According to the petitioner, as per the Kerala Panchayat Building Rules, 2011 the petitioner's building has to be classified as one coming under group 1 and in the light of the National building Code aforenoted, there is no difficulty in issuing NOC for the Fire and Rescue Department on being satisfied that the petitioner has established the Down Comer.

8. Having considered the facts and circumstances, I am of the view that the petitioner need to satisfy only the requirements under law, as per the Kerala Panchayat Building Rules, 2011. If the petitioner had complied with all the requirements under the Kerala Panchayat Building Rules, 2011, necessarily, the Fire and Rescue Department has to issue the final fire NOC on being satisfied that the petitioner had complied with the requirements under the Rules, 2011.

It is made clear that the classification of the building of the petitioner can only be with reference to the specifications under the

Rules, 2011 and not placing reliance under the subsequent Kerala Panchayat Building Rules. Accordingly this writ petition is disposed of, directing the respondents 1 and 2 to issue final fire NOC classifying the petitioners building in accordance with the categorisation under the Kerala Panchayat Building Rules, 2011 and on being satisfied that the petitioner had complied with the norms and specifications of the building as per the above Rules. Needful shall be done within a period of four weeks. Thereafter, the Panchayat shall issue the occupancy certificate to the petitioner in accordance with law, at any rate, within a further period of two weeks.

Sd/-

A.MUHAMED MUSTAQUE

JUDGE

PR

APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE INITIAL NOC ISSUED BY THE 1ST RESPONDENT**
EXHIBIT P2	**TRUE COPY OF THE BUILDING PERMIT ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER**
EXHIBIT P3	**TRUE COPY OF THE LETTER ISSUED BY THE 5TH RESPONDENT TO THE 2ND RESPONDENT**
EXHIBIT P4	**TRUE COPY OF THE REQUEST MADE BY THE PETITIONER BEFORE THE 1ST RESPONDENT**
EXHIBIT P5	**TRUE COPY OF THE LETTER ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER**
EXHIBIT P6	**TRUE COPY OF THE RELEVANT EXTRACT O TABLE 7-MINIMUM REQUIREMENTS FOR FIRE-FIGHTING INSTALLATION CONTAINED IN PART 4-FIRE AND LIFE SAFETY CONTAINED IN NATIONAL BUILDING CODE OF INDIA**