IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE MOHAMMED NIAS C.P.

MONDAY, THE 29TH DAY OF JULY 2024 / 7TH SRAVANA, 1946

WP(C) NO. 522 OF 2024

PETITIONER:

**SANTHOSH M.P., AGED 57 YEARS,
S/O. PADMANABHAN, PROPRIETOR, ABHIRAMI RESTAURANT, 66//4095A1, JEW STREET, ERNAKULAM, RESIDING AT MADICHIYIL (APARNABHAVANAM), NEAR HOSPITAL, PERUMBALAM, PERUMBALAM P.O., ALAPPUZHA DISTRICT, PIN – 688570.**

BY ADVS.M/S. GOKUL DAS V.V.H. & K.V.SREE VINAYAKAN

RESPONDENTS:

1 **THE KOCHI MUNICIPAL CORPORATION, REPRESENTED BY ITS SECRETARY, P.B. NO. 1016, COCHIN, ERNAKULAM DISTRICT, PIN – 682011.**

2 **SECRETARY, KOCHI MUNICIPAL CORPORATION, P.B. NO. 1016, COCHIN, ERNAKULAM DISTRICT,PIN – 682011.**

3 **MINNU MITHIN, AGED 35 YEARS, W/O.LATE MITHIN MADAN, G77 RAYMEN, NEAR LADIES CLUB, PANAMPALILLY NAGAR, ERNAKULAM DISTRICT, PIN – 682036.**

BY ADVS.M/S.ARUN ANTONY, A.RAJASIMHAN & VYKHARI.K.U

SRI.K.JANARDHANA SHENOY, SC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 29.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

MOHAMMED NIAS C. P. , J.

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W. P. (C) No. 522 of 2024

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Dated this the 29th day of July, 2024

J U D G M E N T

The petitioner, stated to be a tenant under the 3rd respondent, has filed this Writ Petition for a direction to the respondent Corporation to renew the trade licence of the petitioner on the basis of Ext.P6 application filed on 21.12.2023.

2. A statement has been filed on behalf of the Corporation, wherein, it is pointed out that the petitioner had a licence issued for a Tea Shop-Fast Food Business from 21.6.2017 up to the close of the Financial Year 2020-2021. After that, the petitioner did not apply for renewal for 2021-2022, 2022-2023 and 2023-2024. Due to the non-renewal of the licence, a Form C notice was issued by the Corporation for renewal of the licence on 5.12.2023 (Ext.P5). It is seen that the petitioner had made an application only on receipt of Ext.P5 on 21.12.2023.

3. The 3rd respondent has filed a counter in which it is alleged that the petitioner is running the business without any licence from the Corporation, without the Consent to Operate from the Pollution Control Board, without the FSSAI Certificate or proper treatment for waste disposal and that the 3rd respondent has made a complaint to the Pollution Control Board, evidenced by Exts.R3(b) and R3(c). The 3rd respondent had also made a complaint to the Assistant Commissioner of Food Safety which is revealed from Ext.R3(e) dated 30.11.2023. In short, the 3rd respondent contends that the petitioner is conducting the business without the requisite permissions.

4. The learned Standing Counsel for the Corporation reiterated the contentions stated in the statement filed by them.

5. I have heard the learned counsel for the petitioner, the learned Standing Counsel for the Corporation as well as the learned counsel for the 3rd respondent.

6. It is not in dispute that the petitioner is a tenant under the 3rd respondent and that, he is in possession of the building in

question. However, the renewal application submitted by the petitioner cannot be considered as the same was not filed within 30 days or not more than 90 days before the day on which such licence or permission is required or the licence expires. Under such circumstances, the petitioner's request under Ext.P6 can only be considered as an application for a fresh licence, in the technical sense. Though the petitioner submits that, it was due to the pendency of a civil suit with the third respondent that he did not make an application, the same cannot be an answer nor will it relieve him of the requirement to get a licence under the provisions of The Kerala Municipality Act, 1994.

7. Since the petitioner is, admittedly, a tenant under the 3rd respondent, the licence application shall be considered by the Corporation without insisting on the consent of the 3rd respondent. However, in the wake of complaints filed against the petitioner for running the business without any kind of permission, the Corporation will consider the grant of licence only on the petitioner complying with the relevant provisions for

running a Tea Shop-Fast Food Business. This shall be done within six weeks from today. It will be open to the third respondent to point out the violations of law, if any, committed by the petitioner to the Corporation, upon which the Corporation will act in accordance with law and without delay.

The Writ Petition is disposed of as above.

Sd/-

MOHAMMED NIAS C. P. , JUDGE

MMG

APPENDIX OF WP(C).NO.522/2024

PETITIONER'S EXHIBITS:

EXHIBIT-P1	**TRUE COPY OF THE RECEIPT DATED 21.06.2017 FOR THE LICENSE FEE ISSUED BY THE 1ST RESPONDENT MUNICIPAL CORPORATION TO THE PETITIONER.**
EXHIBIT-P2	**TRUE COPY OF THE RECEIPT DATED 29.02.2020 FOR THE LICENSE FEE ISSUED BY THE 1ST RESPONDENT MUNICIPAL CORPORATION TO THE PETITIONER.**
EXHIBIT-P3	**TRUE COPY OF THE JUDGMENT DATED 22.06.2023 IN O.S. NO. 345/2021 BEFORE THE ADDITIONAL MUNSIFF'S COURT, ERNAKULAM.**
EXHIBIT-P4	**TRUE COPY OF THE COUNTER FOILS OF BANK PAY-IN-SLIPS ISSUED TO THE PETITIONER FOR RENT TO THE 3RD RESPONDENT FROM JANUARY 2023 TILL DECEMBER 2023.**
EXHIBIT-P5	**TRUE COPY OF THE NOTICE DATED 05.12.2023 BEARING NO. C19/003/M11/23-24 ISSUED BY THE SENIOR PUBLIC HEALTH INSPECTOR OF THE 1ST RESPONDENT MUNICIPAL CORPORATION.**
EXHIBIT-P6	**TRUE COPY OF THE ONLINE APPLICATION DATED 21.12.2023 ALONG WITH THE ACKNOWLEDGEMENT RECEIPT ISSUED BY THE 1ST RESPONDENT MUNICIPAL CORPORATION.**

RESPONDENTS' EXHIBITS:

EXHIBIT R3(A)	**TRUE COPY OF THE GUIDELINE FOR AUDITORIUMS, HOTELS AND RESTAURANTS DATED 5-8-2021 ISSUED BY THE KERALA STATE POLLUTION CONTROL BOARD**

EXHIBIT R3(C)	**TRUE COPY OF THE RECEIPT NO. 1694 DATED 30-11-2023 ISSUED BY THE KERALA STATE POLUTION CONTROL BOARD**
EXHIBIT R3(D)	**TRUE COPY OF THE LETTER NO. PCB/EKM/DO-1/GEN-35/21 DATED 20-12-2023**
EXHIBIT R3(E)	**TRUE COPY OF THE COMPLAINT DATED 30-11-2023 SUBMITTED TO THE ASSISTANT COMMISSIONER OF FOOD SAFETY**
EXHIBIT R3(F)	**TRUE COPY OF THE COMPLAINT DATED 29-11-2023 SUBMITTED TO THE SECRETARY COCHIN CORPORATION**
EXHIBIT R3(G)	**TRUE COPY OF THE COUNTER RECEIPT NO. 20950 DATED 30-11-2023 ISSUED BY THE COCHIN CORPORATION**
EXHIBIT R3(B)	**TRUE COPY OF THE COMPLAINT DATED 29-11-2023 SUBMITTED TO ENVIRONMENTAL ENGINEER**
ANNEXURE R 1(A)	**TRUE COPY OF THE GOVERNMENT CIRCULAR DATED 09 07 2021 NO RC3 228 2021**