

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE ANTONY DOMINIC

FRIDAY, THE 29TH DAY OF JUNE 2012/8TH ASHADHA 1934

WP(C).No. 15148 of 2012 (P)  
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PETITIONER :  
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ROSEMARY,, AGED 52 YEARS,  
W/O BABURAJAN, VARAMVILAKATH VEEDU,  
BHAGAWATHI LANE, TC 5/2586 KOWDIAR P.O.,  
THIRUVANANTHAPURAM

BY ADVS.SRI.R.S.KALKURA  
SRI.M.S.KALESH  
SMT.A.V.PRIYA  
SRI.HARISH GOPINATH

RESPONDENT(S):  
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1. STATE OF KERALA,  
REPRESENTED BY THE CHIEF SECRETARY,  
GOVERNMENT OF KERALA SECRETARIAT,  
THIRUVANANTHAPURAM 695001.
2. SECRETARY, DEPARTMENT OF TOURISM,  
SECRETARIAT,THIRUVANANTHAPURAM 695001.
3. SECRETARY,  
DEPARTMENT OF CULTURE, MUSEUM AND ZOO,  
SECRETARIAT, THIRUVANANTHAPURAM 695034.
4. SECRETARY,  
CORPORATION OF THIRUVANANTHAPURAM,  
CORPORATION BUILDING,  
MUSEUM JUNCTION, THIRUVANANTHAPURAM 695001.

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5. THE THIRUVANANTHAPURAM DISTRICT TOURISM  
PROMOTION COUNCIL,  
THIRUVANANTAPURAM 695001,  
REPRESENTED BY ITS SECRETARY

6. THE SECRETARY,  
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT,  
THIRUVANANTHAPURAM 695001.

R1 TO R3 & R5 BY GOVERNMENT PLEADER SRI. MUHAMMED SHAFI  
BY ADV. SRI. N. NANDAKUMARA MENON (SR.)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION  
ON 29-06-2012, THE COURT ON THE SAME DAY DELIVERED THE  
FOLLOWING:

DSV/-

APPENDIX

PETITIONER'S EXHIBITS :

- EXT. P1 COPY OF THE AGREEMENT DATED 10-06-2009 ENTERED INTO BETWEEN THE PETITIONER AND THE 5TH RESPONDENT
- EXT. P2 COPY OF THE CERTIFICATE ISSUED BY THE STANDING DISABILITY ASSESSMENT BOARD OF THE GENERAL HOSPITAL THIRUVANANTHAPURAM FOR THE PETITIONER'S SON SOJAN BABU, ASSESSING THE PERMANENT DISABILITY DATED 30-09-2011
- EXT. P3 COPY OF THE CERTIFICATE ISSUED BY THE STANDING DISABILITY ASSESSMENT BOARD OF THE GENERAL HOSPITAL THIRUVANANTHAPURAM FOR THE PETITIONER'S SON SOJAN BABU, ASSESSING THE PERMANENT DISABILITY DATED 30-09-2011
- EXT. P4 COPY OF THE CERTIFICATE ISSUED BY THE STANDING DISABILITY ASSESSMENT BOARD OF THE GENERAL HOSPITAL THIRUVANANTHAPURAM FOR THE PETITIONER'S SON CHRISTUDAS, ASSESSING THE PERMANENT DISABILITY DATED 22-07-2011
- EXT. P5 COPY OF THE IDENTITY CARD ISSUED BY THE SOCIAL WELFARE DEPARTMENT OF THE GOVERNMENT OF KERALA FOR PERSONS WITH DISABILITIES TO THE PETITIONER'S SON SOJAN BABU, BEARING NO TVM MRA 2500978
- EXT. P6 COPY OF THE IDENTITY CARD ISSUED BY THE SOCIAL WELFARE DEPARTMENT OF THE GOVERNMENT OF KERALA FOR PERSONS WITH DISABILITIES TO THE PETITIONER'S SON SOJAN BABU, BEARING NO TVM MRA 2500944
- EXT. P7 COPY OF THE IDENTITY CARD ISSUED BY THE SOCIAL WELFARE DEPARTMENT OF THE GOVERNMENT OF KERALA FOR PERSONS WITH DISABILITIES TO THE PETITIONER'S SON CHRISHTUDAS, BEARING NO TVM MRA 2500938

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- EXT. P8 COPY OF THE NOTICE DATED 23-05-2012 ISSUED BY THE 4TH RESPONDENT TO THE PETITIONER
- EXT.P9 COPY OF THE GOVERNMENT ORDER DATED 13-01-2010 BEARING NO 120/20
- EXT. P10 COPY OF THE NOTICE DATED 21-11-2011 ISSUED BY THE DIRECTOR, DEPARTMENT OF MUSEUM TO THE ADMINISTRATIVE OFFICER,MUSEUM AND ZOO, TRIVANDRUM ADDRESSING A COPY OF THE SAME TO THE HEALTH OFFICER
- EXT. P11 COPY OF THE RECEIPT DATED 14-05-2012
- EXT. P12 COPY OF THE RECEIPT DATED 06-05-2012
- EXT. P13 COPY OF THE JUDGMENT OF THE SUPREME COURT OF INDIA IN GAINDA RAM AND OTHERS V. M.C.D AND OTHERS
- EXT.P14 THE GOVERNMENT ORDER DATED 30-04-2011 IN LINE WITH THE DECISION OF THE SUPREME COURT TO REHABILITATE THE STREET VENDORS
- EXT. P15 COPY OF THE REPRESENTATION DATED 16-06-2012 ISSUED BY THE PETITIONER TO THE SIXTH RESPONDENT WITH COPIES TO RESPONDENTS 1 TO 4
- EXT. P16 COPY OF THE POSTAL RECEIPT INDICATING ISSUANCE OF THE REPRESENTATION TO THE RESPONDENTS NO 1 DATED 16-06-2012
- EXT. P17 COPY OF THE POSTAL RECEIPT INDICATING ISSUANCE OF THE REPRESENTATION TO THE RESPONDENTS NO 2 DATED 16-06-2012
- EXT. P18 COPY OF THE POSTAL RECEIPT INDICATING ISSUANCE OF THE REPRESENTATION TO THE RESPONDENTS NO 3 DATED 16-06-2012
- EXT. P19 COPY OF THE POSTAL RECEIPT INDICATING ISSUANCE OF THE REPRESENTATION TO THE RESPONDENTS NO 4 DATED 16-06-2012

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EXT. P20 COPY OF THE POSTAL RECEIPT INDICATING ISSUANCE OF  
THE REPRESENTATION TO THE RESPONDENTS NO 6 DATED  
16-06-2012

RESPONDENTS' EXHIBITS :

NIL

/TRUE COPY/

P.A. TO JUDGE

DSV/-

**ANTONY DOMINIC, J.**  
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**W.P.(C) NO. 15148 OF 2012**  
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**Dated this the 29<sup>th</sup> day of June, 2012**

**J U D G M E N T**

Heard the learned counsel for the petitioner, learned Government Pleader and the learned senior counsel appearing for the respondents.

2. The challenge in this writ petition is against Ext.P8. Petitioner is conducting a cool drink business in a bunk in the museum compound, which was put up by the Thiruvananthapuram District Promotion Council. Ext.P8 is a notice issued by the Corporation of Thiruvananthapuram calling upon the petitioner to close down the cool bar within three days. This notice is dated 23/5/12 and it is this notice which is challenged in this writ petition.

3. A reading of Ext.P8 notice shows that by Ext.P9 order passed by the Government, the bunk in question which is a part of the building constructed by the District Tourism Promotion Council was an unauthorised one and that application made by the District Tourism Promotion Council for its regularisation has been rejected by the Government as per Ext.P9 order dated

13/1/2010. It is in view of Ext.P9 that the Corporation has issued Ext.P8 notice.

4. Ext.P9 order has become final, which means that the structure in question is an unauthorised one. If that be so, petitioner has no right whatsoever to continue her business in such a structure. Therefore, Corporation is perfectly justified in issuing Ext.P8. In that view of the matter, this Court cannot interfere with Ext.P8 for any reason.

5. However, pleadings in the writ petition show that the petitioner is the only bread winning member of her family and that her three children are mentally retarded. This certainly calls for a sympathetic consideration and taking note of this fact, I direct that the petitioner will be permitted to continue the shop for another period of six months so that, she could conveniently identify another location and shift her bunk shop.

Writ petition is dismissed.

**ANTONY DOMINIC, JUDGE**

Rp