

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE A.M.SHAFFIQUE

FRIDAY, THE 28TH DAY OF JUNE 2013/7TH ASHADHA, 193

WP(C).No. 25036 of 2011 (D)

PETITIONER(S):

- 1. ERNAKULAM DISTRICT AUTORICKSHAW
DRIVERS ASSOCIATION, CITU, ARAYANKAVU UNIT
REPRESENTED BY ITS PRESIDENT, RAJESH P.P.
S/O.PARAMESWARAN, AGED 34.**
- 2. THE ERNAKULAM DISTRICT AUTORICKSHAW
THOZHILALI UNION, INTUC, AMBALLOOR MEGHALA
ARAYANKAVU UNIT, INTUC OFFICE, KANJIRAMATTOM P.O.
MILLINGAL JUNCTION, REPRESENTED BY ITS PRESIDENT
SANTHOSH K.N., AGED 37 YEARS, S/O.NARAYANAN.**

**BY ADVS.SRI.SAJEEV KUMAR K.GOPAL
SRI.K.R.VINOD**

RESPONDENT(S):

- 1. THE AMBALLOOR GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY - 682314.**
- 2. THE SECRETARY,
AMBALLOOR GRAMA PANCHAYATH - 682314.**
- 3. THE REGIONAL TRANSPORT AUTHORITY,
ERNAKULAM, REPRESENTED BY ITS SECRETARY - 682030.**
- 4. THE SUB INSPECTOR OF POLICE,
MULANTHURUTHY - 682314.**
- 5. T.S.SOMAN, THEKKE MALAYIL,
KULAYETTIKKARA P.O., AMBALLOOR - 682314.**
- 6. MOIDEENKUTTY, KALAYIL HOUSE,
KULAYETTIKKARA P.O., AMBALLOOR - 682314.**
- 7. ABDUL KAREEM K.M., KUNNAMKULATHIL HOUSE,
KULAYETTIKKARA P.O., AMBALLOOR - 682314.**
- 8. NISHA SHAMEER, THOUFEEQUE MANZIL,
KULAYETTIKKARA P.O., AMBALLOOR - 682314.**

9. BASHEER P.A., POYATTIL HOUSE,
KULAYETTIKKARA P.O., AMBALLOOR - 682314.

10. HAKIM P.A., POYATTIL HOUSE,
KULAYETTIKKARA P.O., AMBALLOOR - 682314.

R5-10 BY ADV. SRI.G.PRABHAKARAN
R5-10 BY ADV. SMT.R.PADMAKUMARI
R1 & 2 BY ADV. SRI.P.G.PARAMESWARA PANICKER (SR.)
R1 & 2 BY ADV. SRI.P.GOPAL
R3 BY ADV. GOVERNMENT PLEADER MR.RAM PRASAD UNNI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28-06-2013,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

jm

APPENDIX

PETITIONER(S) EXHIBITS

**EXT-P1 TRUE COPY OF THE RESOLUTION OF THE 1ST RESPONDENT
GRAMA PANCHAYATH AT ITS MEETING HELD ON 28-12-2010
VIDE RESOLUTION NO.VI(12)**

**EXT-P2 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
1ST PETITIONER BEFORE THE 1ST RESPONDENT.**

**EXT-P3 TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE
2ND PETITIONER BEFORE THE 1ST RESPONDENT.**

**EXT-P4 TRUE COPY OF THE JUDGEMENT DTD 30-6-2011 OF THIS
HON'BLE COURT IN WPC NO.13285/2011.**

**EXT-P5 TRUE COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT
IN ITEM NO.78 AT ITS MEETING HELD ON 6/8/2011.**

RESPONDENTS' EXHIBITS : NIL

R8(a): TRUE COPY OF THE JUDGMENT IN W.P(C) NO. 29509/2010 DT. 22.3.2011

**\\ TRUE COPY **

PA TO JUDGE

jm/

A.M.SHAFFIQUE, J

W.P.C.No.25036 of 2011

Dated this the 28th day of June 2013

J U D G M E N T

Petitioners are the Unions of autorickshaw drivers. They challenged Ext.P5 an order passed by the Regional Transport Authority on the basis of direction issued by this Court in W.P.C.No.13285 of 2011. The issue was relating to parking of auto rickshaw in front of commercial centre. Party respondents 5 to 10 had a complaint that the autorickshaws are parked in front of their business premises which virtually prevented the proper functioning of their business activity and ingress and egress to their commercial building. The matter was taken up at different levels and in fact by Ext.P1 the Panchayath has made a suggestion to permit parking of auto rickshaw in such a manner to avoid inconvenience to the shop owners as well.

2. As there was no sufficient progress in the matter, the Unions complained that their parking is being

unauthorisedly obstructed by the respondents which resulted in judgment at Ext.P4 wherein this Court had directed the authority to consider and pass orders on the decision taken by the Panchayath at Ext.P1 in accordance with the procedure prescribed and after hearing all parties. It is the complaint of the petitioners that they were not heard in the matter. In the statement filed by the Government there is no indication about notice being issued to the petitioners and providing them an opportunity to be heard.

3. That being the situation, it is clear that the RTA has not complied with the directions issued by this Court in Ext.P4 judgment. Another writ petition was filed by the party respondents herein as W.P.C.No.29509 of 2010 and by judgment dated 22/03/2011 a direction was issued by this Court to take appropriate decision by the RTA to implement Ext.P1.

4. Having regard to the aforesaid facts, I am of the view that the RTA ought to have issued notice to the contesting parties before taking a decision in the matter. Since there is violation of natural justice in passing Ext.P5 order, the said order is liable to be set aside for that reason itself.

In the result,

- i) Ext.P5 is quashed.
- ii) The RTA shall reconsider the matter after hearing the petitioners in the writ petition, the Panchayath, party respondents 6 to 10 and other affected parties and a decision shall be taken in the matter within a period of one month from the date of receipt of a copy of this judgment.

(sd/-)

(A.M.SHAFFIQUE, JUDGE)

jsr

