

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.N.RAVINDRAN

FRIDAY, THE 31ST DAY OF JANUARY 2014/11TH MAGHA, 1935

WP(C).No. 31947 of 2013 (P)

PETITIONER(S):

**JOHN NUMPELI (JUNIOR), AGED 44 YEARS,
S/O JOHN, ADVOCATE, CHAMBER NO.104,
KERALA HIGH COURT ADVOCATES ASSOCIATION CHAMBER COMPLEX,
ERNAKULAM, COCHIN-682031.**

BY ADV. SRI.VINOD VALLIKAPPAN

RESPONDENT(S):

- 1. THE PUBLIC INFORMATION OFFICER/ASSISTANT EXECUTIVE ENGINEER-1,
OFFICE OF THE TOWN PLANNING OFFICER,
COCHIN CORPORATION, ERNAKULAM-682 021.**
- 2. THE EXECUTIVE ENGINEER-1,
OFFICE OF THE TOWN PLANNING OFFICER, COCHIN
CORPORATION, ERNAKULAM-682021.**
- 3. STATE OF KERALA,
REPRESENTED BY SECRETARY TO LOCAL
SELF GOVERNMENT DEPARTMENT ,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.**

**R1 & 3 BY SENIOR GOVERNMENT PLEADER SMT.ANITA RAVINDRAN
R2 BY ADV. SRI.BABU KARUKAPADATH,SC,COCHIN CORPORATION**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 31-01-2014, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PJ

WP(C).No. 31947 of 2013 (P)

APPENDIX

PETITIONER(S)' EXHIBITS

**EXHIBIT P1: THE TRUE COPY OF THE APPLICATION UNDER THE RIGHT TO
INFORMATION ACT.**

**EXHIBIT P2: THE TRUE COPY OF THE REPLY DATED 18.12.12 OF THE IST
RESPONDENT.**

**EXHIBIT P3: THE TRUE COPY OF THE BILL SHOWING THE PAYMENT OF RS.888/- BY
THE PETITIONER FOR TAKING COPIES OF THE DOCUMENTS.**

**EXHIBIT P4: THE TRUE COPY OF THE COPY OF BUILDING PERMIT FURNISHED
UNDER THE RTI ACT.**

RESPONDENT(S)' EXHIBITS

NIL.

/ TRUE COPY /

P.S. TO JUDGE

PJ

“C.R”

P.N.RAVINDRAN, J.

W.P.(C).No.31947 of 2013

Dated this the 31st day of January, 2014

JUDGMENT

The petitioner, a lawyer practicing in this Court, submitted Ext.P1 application under the Right to Information Act, 2005 (hereinafter referred to as the Act for short) to the Public Information Officer, Corporation of Kochi, Ernakulam. It is stated that though pursuant to Ext.P1, photostat copies of all documents sought, except a copy of the No Objection Certificate issued by the Fire and Rescue Services Department, were furnished to the petitioner, they were not attested or certified by the first respondent as copies furnished under the Act. The petitioner has also stated that though he met the second respondent, who is the appellate authority under the Act and requested him to issue attested certified copies, the second respondent did not accede to his request, but on the other hand he gave oral directions to his subordinate to issue only un-attested or un-certified copies stating that there is a general instruction from the Local Self Government

Department that copies issued under the Act shall not be certified. In this writ petition the petitioner prays for an order directing the first respondent to certify the copies of documents furnished to him pursuant to Ext.P1 application as copies issued under the Act. The petitioner has also prayed for an order directing the first respondent to furnish to him with copy of the No Objection Certificate issued by the Fire and Rescue Services Department.

2. Respondents 1 and 2 have sworn to a counter affidavit dated 15.1.2014. As regards the No Objection Certificate issued by the Fire and Rescue Services Department, in paragraph 4 of the counter affidavit it is stated that a copy of the No Objection Certificate was not given as it was not available in the files. As regards the other relief prayed for in the writ petition it is stated that there is no mandate or provision to certify the copies issued under the Act as copies issued under the Right to Information Act, 2005. It is also stated that the Act does not contemplate it and that it only intends to provide access to information for citizens. It is also contended that certified copies can be issued only in respect of public documents, that the Act does not provide for certifying the copies issued under the Act, that such certification

may even give authenticity to the documents which are not genuine or even fabricated and such a course is likely to adversely affect the very interests of the society and the country as a whole. Paragraphs 5 and 6 of the counter affidavit dated 15.1.2014 containing the aforesaid averments are extracted below:-

"5. It is submitted that, there is no mandate or provision under the Right to Information Act, 2005 to certify the copies issued under the said Act as "copies issued under the Right to Information Act". The Act does not contemplate the same. The Act only intends and provides for the citizens to secure access to the information. It does not provide for certifying the copies as issued under the Act. The issuance of large volume and numbers of documents with such certification will unnecessarily take precious working hours of the officials. The same is not contemplated by the legislature.

6. The certified copies can be issued only in respect of the public documents. Otherwise, the certification to that effect may even give authenticity to the documents which may not be genuine or even fabricated. Such a course is likely to adversely affect the very interest of the society and the country. The petitioner is not entitled to get any relief."

3. I heard Sri.Vinod Vallikappan, learned counsel appearing for the petitioner and Sri.Babu Karukapadath, learned standing counsel appearing for the Corporation of Kochi as also Smt.Anitha Raveendran, learned Senior Government Pleader appearing for the State of Kerala. As regards the No Objection Certificate, which is the subject matter of relief No.2, in view of the stand taken by the respondents in their counter affidavit, the petitioner should, in my opinion, move the Fire and Rescue Services Department requesting the Public Information Officer for information in that regard. As regards the first relief sought for, viz. a direction to the first respondent to certify the copies of documents furnished to the petitioner pursuant to Ext.P1 application as copies issued under the Right to Information Act, 2005, the stand taken by the respondents is that the Act does not contemplate such certification. Reliance is placed on section 7 of the Act in support of the said contention. Though section 7 of the Act does not refer to issuance of certified copies it is evident from the definition of the terms "information" and "right to information" occurring in section 2(f) and 2(j) respectively of the Act, that the Act contemplates issue of certified copies. The term

"information is defined in section 2(f) of the Act as follows:-

2(f) "Information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

The definition of the term "information" includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data materials held in any electronic form etc. It also includes information relating to any private body which can be accessed by a public authority under any law for the time being in force. The term "right to information" is defined to include taking of notes, extracts or certified copies of documents or records. Section 2(j) of the Act which defines the term "right to information" reads as follows:-

"2(j) "Right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to -

(i) inspection of work, documents, records;

- (ii) taking notes, extracts or certified copies of documents or records;
- (iii) *taking certified samples of material;*
- (iv) *obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device."* (emphasis supplied)

In the light of the provisions contained in sections 2(f) and 2(j) of the Act, the stand taken by the respondent that the Act does not contemplate issue of certified copies of documents or records cannot be sustained. Likewise I also find no merit or force in the contention of the respondents that grant of certified copies may give authenticity to the documents which may not be genuine or even fabricated. In the event of an applicant's request for information being granted all that the Public Information Officer would have to do is to certify that the copy is one issued under the Right to Information Act, 2005. He is not called upon to certify that it is a copy of a genuine document. I therefore, find no reason why the first relief prayed for by the petitioner cannot be granted.

I accordingly allow the writ petition and direct the first respondent to issue a fresh set of documents sought for in Ext.P1 application other than the No Objection Certificate issued by the

Fire and Rescue Services Department on the petitioner paying the requisite fees and to certify the copies as copies issued under the Right to Information Act, 2005. The needful in the matter shall be done and copies of documents issued within one month from the date of receipt of a copy of this judgment.

**P.N.RAVINDRAN,
Judge.**

ahg.

P.N.RAVINDRAN, J.

W.P.(C).No.31947 of 2013

JUDGMENT

31st January, 2014