

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.20239 of 2019

PETITIONER/S:

K.P.UNNI, AGED 65 YEARS
S/O. KUNJUMOHAMMED,
RESIDING AT MANAKKAKUDIYIL HOUSE,
NEAR I.V. COTTAGE, GRAHAMS LAND ROAD,
MUNNAR P.O, PIN-685 612

BY ADV. SRI.N.M.VARGHESE

RESPONDENT/S:

- 1 STATE OF KERALA, REPRESENTED BY SECRETARY,
LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM, PIN-695 001
- 2 THE MUNNAR GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY, PANCHAYATH OFFICE,
MUNNAR P.O, PIN-685 612.
- 3 THE DEPUTY SUPERINTENDENT OF POLICE,
MUNNAR, MUNNAR P.O, PIN-685 612.
- 4 THE SPECIAL TAHSILDAR, MUNNAR,
OFFICE OF THE SPECIAL TAHSILDAR,
IKKA NAGAR, MUNNAR P.O, PIN-685 612.

BY ADVS.
SRI.SUNIL NATH,GP
SRI.ARUN THOMAS - SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30.07.2019, ALONG WITH WPC 20769/2019, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE DEVAN RAMACHANDRAN

TUESDAY, THE 30TH DAY OF JULY 2019 / 8TH SRAVANA, 1941

WP(C).No.20769 of 2019

PETITIONER/S:

- 1 BALASEKHAR, AGED 38 YEARS
S/O SHANKUGHAM, NALLATHANNI ESTATEM GURUMALI
DIVISON, MUNNAR PO, IDUKKI DISTRICT 685 612
- 2 CHELLAMMA, AGED 74, W/O LATE SWAMINATHAN,
NEW MUNNAR, BETHALE ASRAMAM (NEAR MUNNAR) ,
IDUKKI DISTRICT, 685 612
- 3 ALANITHAIE, AGED 42, W/O MURUGESAN,
LETCHMI ESTATE, NAGARMUDI DIVISION,
MUNNAR PO, IDUKKI DISTRICT 685 612
- 4 CHANDRAN, AGED 45, S/O SIVANU,
NAGARMUDI DIVISION, SEVEN MALAI ESTATE,
MUNNAR 685 612
- 5 BENY SEBASTIAN, AGE 45, S/O SEBASTIAN,
10/1166 RAJIV GANDHI COLONY, IKKA NAGAR,
MUNNAR 685 612

BY ADV. SRI.S.RENJITH

RESPONDENT/S:

- 1 STATE OF KERALA, REP BY CHIEF SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM 695 001
- 2 LOCAL SELF GOVERNMENT DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM 695 001, REP BY ITS SECRETARY

3 THE LAW SECRETARY, DEPARTMENT OF LAW,
SECRETARIAT, THIRUVANANTHAPURAM 695 001

4 THE MUNNAR GRAMA PANCHAYAT, PANCHAYAT OFFICE,
MUNNAR, IDUKKI DISTRICT, PIN 685 612,
REP BY ITS SECRETARY

5 THE CIRCLE INSPECTOR OF POLICE, MUNNAR,
IDUKKI DISTRICT 685 612

6 THE REVENUE DIVISIONAL OFFICER,
REVENUE DIVISIONAL OFFICE, DEVIKULAM, .
MUNNAR, IDUKKI 685 612

7 THE REGIONAL TRANSPORT OFFICER,
REGIONAL TRANSPORT OFFICE, DEVIKULAM,
IDUKKI 685 613

8 KANNAN DEVAN HILLS PLANTATION COMPANY LTD,
KDHP HOUSE, KANNAN DEVAN HILLS VILLAGE,
DEVIKULAM TALUK, MUNNAR, PIN 685 612,
REP BY ITS MANAGING DIRECTOR

BY ADVS.
SRI.ARUN THOMAS, SC,
SRI.BIMAL K.NATH, SR.GP
SRI.NB.SUNIL NATH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
30.07.2019, ALONG WITH WPC 20239/2019, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

JUDGMENT

The petitioners in these two cases seek the same benefits as were granted to others in WP(C)No.25116/2018 and connected matters, a copy of which judgment is available on record as Ext.P6 in WP(C)No.20769/2019.

2. According to the petitioners, the learned Judge of this Court had, after an exhaustive evaluation of all the relevant factors which are fully applicable to the petitioners herein also, issued the following directions:

7. It is also a matter of common knowledge that the heart of the Munnar Grama Panchayat itself is described as "township" in informal parlance, though the local authority constituted for Munnar is a Grama Panchayat. Having regard to the huge influx of tourists to the Munnar and surrounding areas during the months of July and October, this Court is of the considered view that Munnar should require consideration by the competent authorities so as to whether it is to be treated differently from other Grama Panchayats and whether a scheme akin to or similar to one framed under the provisions the Street Vendors' Act, could be framed for the Munnar Township area so as to regulate the street vending activity. These are all matters which are best left to the consideration of the competent authorities of the State, especially the State Government. Accordingly, it is ordered that the 1st respondent Government in the Local Self Government Department will take steps to constitute a committee consisting of the nominees of the Government, like the Director/Dy. Director of Panchayats,

Director/Dy Director of Urban Affairs and other officials, who have been associated with framing of the Kerala Street Vendors (Protection of Livelihood & Regulation of Street Vending) Scheme, 2016 framed under the abovesaid Central Act and such other officials like the Collector of the District concerned and/or Sub Collector or Revenue Divisional Officer of Devikulam, President, Vice President, and Secretary of the Munnar Grama Panchayat, representatives of the Public Works Department of the area concerned, representatives of the Police Department in the area concerned, etc. so as to seriously consider as to whether appropriate scheme akin to or similar to the one in the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme 2016 could also be framed with respect to the areas in the Munnar Grama Panchayat, for regulating the activities of street vending in those areas with sufficient and necessary modifications, etc. The 1st respondent State Government may take an appropriate decision regarding the constitution of the committee as suggested herein above and shall ensure that the said committee is constituted within two months from the date of receipt of a certified copy of this judgment after consultation with the District Collector, Sub Collector, Revenue Divisional Officer of the area concerned. It is brought to the notice of this Court that most of the areas in Munnar have been leased by the Government to the Kannan Devan Hills Plantations Company Ltd (KDHP Ltd.). It may considered whether the representative of the said company or could also be invited to participate in the committee as a special invitee so that their views and co-operation could also be enlisted in the abovesaid endeavour. It is again reiterated that the constitution of the committee is to be decided appropriately by the Government in its discretion taking into account various aspects relating to street vending activity in Munnar areas. The committee so constituted shall ensure that detailed recommendation is placed before the 1st respondent Government and the said committee may consider whether any appropriate scheme is to be recommended to the Government. Thereafter, the competent authority of the 1st respondent State Government will take appropriate decision in the matter as to whether such scheme is to be framed for regulating street vending activity in Munnar areas and steps in that regard may be completed within 8 months from the date of production of a certified copy of this judgment. Needless to say, the said committee will ensure that the views of the representatives of the street vendors are also

duly taken into account. For that purpose, it may be better that the committee or its authorised representatives may directly give an opportunity to the representatives of the street vendors to place their written suggestions and views in the matter. If any scheme is framed by the State Government as aforesaid, then the street vending activity could thenceforth will stand regulated by the provisions of such scheme. Until such appropriate decision is taken by the 1st respondent State Government on the abovesaid matters, status quo ordered in these cases will continue. However, it is made clear that the petitioners shall not cause any obstruction to the free flow of pedestrians and traffic in the areas where they operate and in case it is found that the operation of street vending activity causes any serious hindrance to the free flow of pedestrians or traffic, it will be open to the respondent Revenue Divisional Officer, Devikulam, or any officer authorised by him to regulate such aspects.

The office of the Advocate General will forward certified copies of this judgment to the respondent State Government in the Local Self Government Department, District Collector, Kottayam, Revenue Divisional Officer, Devikulam, the Director of Panchayats, Director of Urban Affairs for necessary information.

With these observations and directions, the above Writ Petitions (Civil) stand finally disposed of.

3. The petitioners say that to their information, no action has yet been taken by the Government to constitute a Committee as directed therein and therefore, that until such time as the directions afore extracted are completed, they should also be given the benefit of the *status quo* granted to the petitioners in the afore judgment.

4. Sri.Arun Thomas, learned Standing Counsel appearing for the 4th respondent-Munnar Grama Panchayat in WP(C)NO.20769/2019, concedes that the position of the petitioners herein and those in Ext.P6 judgment are similar but that it is the Government which should have taken action under the said judgment and not the Panchayat. He says that they will abide by Ext.P6 judgment and prays that the Government be directed to comply with the directions therein immediately.

5. Sri.N.B.Sunil Nath, learned Government Pleader appearing on behalf of the official respondents, submits that an appropriate Scheme has already been notified by the Government pursuant to Ext.P6 judgment and that all other directions therein will also be complied with within a short period of time.

6. When I hear the afore submissions, it is obvious that since the position of the petitioners herein are analogous to those in

Ext.P6 judgment, they should also obtain the same benefits as have been offered therein.

In the afore circumstances, I order these Writ Petitions making the directions afore extracted applicable to the petitioners herein also and leave it to the competent Authorities of the Government and the Munnar Grama Panchayat to act as per its mandate within the earliest possible period of time.

Needless to say, until such time as the afore exercise is completed, the petitioners will continue to obtain the benefits of the arrangement of *status quo* as ordered in Ext.P6 judgment.

Sd/-

DEVAN RAMACHANDRAN

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JUDGE

APPENDIX OF WP(C) NO.20239/2019

PETITIONER'S/S EXHIBITS:

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| EXHIBIT P1 | A PHOTOCOPY OF JUDGMENT OF THIS
HON'BLE COURT DATED 16.2.2005 PASSED
IN WP(C) NO. 5493/2005. |
| EXHIBIT P2 | A PHOTOCOPY OF JUDGMENT OF THIS
HON'BLE COURT DATED 28.10.2014 PASSED
IN WP(C) NO. 19290/2014. |
| EXHIBIT P3 | A PHOTOCOPY OF JUDGMENT OF THIS
HON'BLE COURT DATED 31.05.2018 PASSED
IN WP(C) NO. 14703/2018. |
| EXHIBIT P4 | A PHOTOCOPY OF APPLICATION FOR D& O
LICENCE WITH REPRESENTATION DATED
14.06.2018 SUBMITTED BEFORE THE 2ND
RESPONDENT GRAMA PANCHAYAT. |
| EXHIBIT P5 | A PHOTOCOPY OF COMMUNICATION NO. B2
3147/2018 DATED 26.06.2018 ISSUED
FROM THE 2ND RESPONDENT GRAMA
PANCHAYAT. |
| EXHIBIT P6 | A PHOTOCOPY OF CASE REPORT OF THE
PETITIONER ISSUED FROM DEPARTMENT OF
CARDIOLOGY, LISIE HOSPITAL, ERNAKULAM
DATED 31.01.2019. |

APPENDIX OF WP (C) NO.20769/2019

PETITIONER'S/S EXHIBITS:

EXHIBIT P1	TRUE COPY OF THE JUDGMENT IN WPC NO.14703 OF 2018 DATED 31.05.2018
EXHIBIT P2	COPY OF THE APPLICATION DATED 16.06.2018 SUBMITTED BY 1ST PETITIONER BEFORE THE 4TH RESPONDENT PANCHAYAT
EXHIBIT P3	COPY OF THE APPLICATION DATED 16.06.2018 SUBMITTED BY 2ND PETITIONER BEFORE THE 4TH RESPONDENT PANCHAYAT
EXHIBIT P4	COPY OF THE APPLICATION DATED 16.06.2018 SUBMITTED BY 4TH PETITIONER BEFORE THE 4TH RESPONDENT PANCHAYAT
EXHIBIT P5	COPY OF THE REPLY OF THE 4TH RESPONDENT PANCHAYAT DATED 26.06.2018.
EXHIBIT P6	COPY OF THE JUDGMENT DATED 21.08.2018 IN WPC NO.25116 OF 2018 OF THIS HON'BLE COURT.