

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THURSDAY, THE 31<sup>ST</sup> DAY OF MARCH 2022/10TH CHAITHRA, 1944

W.P(C).NO.5557 OF 2022

PETITIONERS:

- 1        SOMAN.P.G  
          AGED 51 YEARS  
          S/O.NANU, PADINJARE CHAMBANKULAM, NALUKODI (P.O) ,  
          PAIPPAD, KOTTAYAM AND NOW RESIDING AT HOUSE NO.3,  
          KALATHIPARAMBIL HOUSE, GIRINAGAR SOUTH, ERNAKULAM.
- 2        DEBENDRA MAHALIK,  
          AGED 30 YEARS  
          S/O.SURAT MAHALIK, 57/1516, KADAVANTHRA, ERNAKULAM.
- 3        HEMANTA NAYAK,  
          AGED 30 YEARS  
          S/O.ABHAY NAYAK, HOUSE NO:2312, KADAVANTHRA,  
          ERNAKULAM.
- 4        BIMAL KUMAR PRADHAN,  
          AGED 40 YEARS  
          S/O.MURALI PRADHAN, VADAKKEDATH HOUSE,  
          KP VALLON ROAD, KADAVANTHRA, ERNAKULAM.
- 5        THANKAMANI,  
          AGED 64 YEARS  
          D/O.CHOTHI, PULIYELLIL HOUSE, SHARIPADY JN.,  
          EROOR, ERNAKULAM.

BY ADV.SRI.M.VIVEK

BY ADV.SMT.T.P.SINDHUMOL

BY ADV.SRI.SHYAMDEEP S.SHENOY

RESPONDENTS :

- 1 CORPORATION OF COCHIN  
REPRESENTED BY ITS SECRETARY, MAIN OFFICE,  
NEAR BOAT JETTY, ERNAKULAM, KOCHI-682015.
- 2 SECRETARY TO GOVERNMENT  
LOCAL SELF GOVERNMENT DEPARTMENT,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.
- 3 THE STATE OF KERALA  
REPRESENTED BY THE CHIEF SECRETARY,  
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695001.
- 4 STATION HOUSE OFFICER  
ERNAKULAM TOWN SOUTH POLICE STATION,  
ERNAKULAM, PIN-682020.

BY SRI.K.JANARDHANA SHENOY, SC, KOCHI MUNICIPAL  
CORPORATION  
BY SMT.DEEPA, GOVT. PLEADER

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR  
ADMISSION ON 31.03.2022, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

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

The petitioners in this writ petition, five in number, are stated to be engaged in street vending at various locations within the limits of the Cochin Corporation. In the writ petition, they are aggrieved by Ext.P2 order, whereby, their applications for certificates of vending to carry on street vending activities has been rejected by the Secretary of the Cochin Municipal Corporation. In the writ petition, it is their case that they are persons who would answer to the description of “street vendor” under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act and Rules as also the Scheme published by the Municipal Corporation of Cochin, and hence, their applications for certificates of vending ought not to have been rejected. The prayer in the writ petition is essentially for quashing Ext.P2 order and a direction to the 1<sup>st</sup> respondent to return the vending stalls of the petitioners which were allegedly taken away forcefully, and to permit the petitioners to continue with the street vending activities

at the locations where they were carrying on the said activities.

2. I have heard Sri.Vivek M., the learned counsel for the petitioners, Sri.K.Janardhana Shenoy, the learned Standing counsel for the respondent Corporation and also Smt.Deepa, the learned Government Pleader for respondents 2, 3 and 4.

3. On a consideration of the rival submissions, I find that Ext.P2 order has been passed by the Secretary of the Cochin Municipal Corporation, whereas, based on the orders passed by this Court in a batch of writ petitions, the applications for issuing of certificates of vending, in terms of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act and Rules, has ordinarily to be considered by the Town Vending Committee of the Cochin Municipal Corporation at first instance, and it is only on a rejection of that applications by the Town Vending Committee that an appeal would lie before the Municipal Corporation. Inasmuch as in the instant case, the order rejecting the applications of the petitioners has been passed by the Secretary of the Corporation, I find the same to be without jurisdiction, and therefore quash the same. I further direct the

Cochin Corporation to place the applications preferred by the petitioners for certificate of vending before the Town Vending Committee of the Corporation so that the said applications can be considered along with other pending applications for issuance of certificate of vending, within two months as directed by this Court in the interim order dated 31.3.2022 in W.P.(C).No.21401/2019 and connected cases. It is made clear that the petitioners shall not engage in street vending activities till such time as they get a certificate of vending, either provisional or regular, from the Corporation based on the scrutiny of their applications by the Town Vending Committee.

The writ petition is disposed as above.

**Sd/-**  
**A.K.JAYASANKARAN NAMBIAR**  
**JUDGE**

APPENDIX OF W.P(C) .NO.5557/2022

PETITIONERS EXHIBITS:

Exhibit P1	TRUE COPY OF THE JUDGMENT DATE 25-10-2021 IN W.P. (C)NO.23047 OF 2021
Exhibit P2	TRUE COPY OF THE ORDER DATED 22-12-2021 IN M O H 12-32350/2021
Exhibit P3	TRUE COPY OF THE APPEAL FILED BY THE 1ST PETITIONER
Exhibit P4	TRUE COPY OF THE APPEAL FILED BY THE 2ND PETITIONER
Exhibit P5	TRUE COPY OF THE APPEAL FILED BY THE 3RD PETITIONER
Exhibit P6	TRUE COPY OF THE APPEAL FILED BY THE 4TH PETITIONER
Exhibit P7	TRUE COPY OF THE APPEAL FILED BY THE 5TH PETITIONER
Exhibit P8	TRUE COPY OF THE ACKNOWLEDGMENT FOR RECEIPT OF THE EXT-P3 DATED 01.02.2022
Exhibit P9	TRUE COPY OF THE ACKNOWLEDGMENT OF RECEIPT OF THE EXT-P4 DATED 01.02.2022
Exhibit P10	TRUE COPY OF THE ACKNOWLEDGMENT OF RECEIPT OF THE EXT-P5 DATED 01.02.2022

Exhibit P11	TRUE COPY OF THE ACKNOWLEDGMENT OF RECEIPT OF THE EXT-P6 DATED 01.02.2022
Exhibit P12	TRUE COPY OF THE ACKNOWLEDGMENT OF RECEIPT OF THE EXT-P7 DATED 01.02.2022
Exhibit P13	TRUE COPY OF THE ABOVE STATED TEMPORARY LICENSE ISSUED TO A STREET FOOD VENDOR OF THE SAME LOCATION.

RESPONDENTS EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE