

**Ummer Vs. the State of Kerala**

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**SooperKanoon Citation :** [sooperkanoon.com/1131735](http://sooperkanoon.com/1131735)

**Court :** Kerala

**Decided On :** Feb-14-2014

**Judge :** Honourable Mr.Justice P.R.Ramachandra Menon

**Appellant :** Ummer

**Respondent :** The State of Kerala

**Judgement :**

IN THE HIGH COURT OF KERALA AT ERNAKULAM PRESENT: THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON FRIDAY,THE14H DAY OF FEBRUARY201425TH MAGHA, 1935 WP(C).No. 2210 of 2014 (A)

----- PETITIONER: ----- UMMER, AGED49YEARS, S/O.MUHAMMED, PANANGATIL HOUSE, CHERUTHURUTHY, THRISSUR DISTRICT- 679 531. BY ADV. SRI.G.SREEKUMAR (CHELUR). RESPONDENTS: ----- 1. THE STATE OF KERALA, REP.BY THE SECRETARY TO THE GOVT., EDUCATION DEPARTMENT, GOVT.,SECRETARIAT,THIRUVANANTHAPURAM -695 001.

2. THE JOINT GENERAL CONVENOR, DEPUTY DIRECTOR OF EDUCATION, PALAKKAD, ORGANISING SAMITHI, 54 KERALA STATE SCHOOL YOUTH FESTIVAL, PALAKKAD- 678 001.

3. THE DIRECTOR OF PUBLIC INSTRUCTIONS, OFFICE OF THE D.P.I, THIRUVANANTHAPURAM- 695 001.

4. YOUSUF.M.A, S/O.ABDUL RAHIMAN, MALIEKAL HOUSE, CHERUTHURUTHY, THRISSUR DISTRICT- 679 531. R1 TO R3 BY SRI.K.A.JALEEL, ADDL. ADVOCATE GENERAL, SRI. JOE KALLIATH, SR. GOVT. PLEADER. THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON1402-2014, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING: Prv. W.P.(C).NO.2210/2014-A: APPENDIX PETITIONER'S EXHIBITS: EXHIBIT P1: COPY OF THE TENDER NOTIFICATION WITH SPECIFICATION FOR PUTTING UP THE STAGES FOR THE YOUTH FESTIVAL ISSUED DATED3011/2013. EXHIBIT P2: COPY OF THE PAPER REPORT IN THE DAILY NEWS PAPERS DESABHIMANI DATED181/2014. EXHIBIT P3: COPY OF THE DESABHIMANI PAPERS REPORTED DATED3012/2013. EXHIBIT P4: COPY OF THE RELEVANT PAGE OF THE LOCAL NEWS PAPER 'SIRAJ DAILY' DATED3012/2013. EXHIBIT P5: COPY OF THE COMPLAINT BY THE PETITIONER BEFORE THE FIRST RESPONDENT DATED2612/2013. EXHIBIT P6: COPY OF THE COMPLAINT OF THE PETITIONER DATED131/2014. RESPONDENTS' EXHIBITS: NIL. //TRUE COPY// P.S. TO JUDGE. Prv. P.R. RAMACHANDRA MENON, J.

..... W.P.(C)No. 2210  
OF2014..... Dated this the 14th  
February, 2014

## JUDGMENT

The alleged defective construction of the 'stages' in connection with the 54th State School Kalolsavam commenced from 19.01.2014 at Palakkad, is the subject matter of consideration before this Court. The main case of the petitioner is that though he participated in the Bid, it did not turn to be fruitful and the higher bid submitted by the 4th respondent was accepted and the work was awarded to him. But the construction of the stages and setting up of the infrastructure was not in tune with the requirements/guidelines in the notification issued and there was lapse in all respects. In the said circumstance, Exts.P5 and P6 representations were preferred before the concerned Minister. The petitioner simultaneously approached this Court referring to the steps being taken so as to cause black

listing of the 4th respondent; simultaneously pointing out that physical inspection of the stages was to be conducted before W.P.(C)No. 2210 OF20142 dismantling/demolishing the stages, on culmination of the events on 24.01.2014. It was in the said circumstance, that the matter was considered and the following interim order was passed on 22.01.2014: "Urgent notice on admission by Special Messenger to R4. On completion of the events in connection with the State Level School Youth Festival being conducted at concerned venues in the Palakkad District, the 2nd respondent shall conduct an inspection with notice to R4 and necessary data shall be collected as to the factual particulars with regard to the issue projected in the writ petition." 2. A detailed statement has been filed by the second respondent/the Joint General Convenor, Deputy Director of Education, referring to the actual facts and figures . The learned Government Pleader points out that the requisite extent specified in the tender notification was only a tentative figure; that as per the norms and relevant practice, after effecting construction, there will be physical verification of the stages and such other infrastructures provided and that only on satisfaction W.P.(C)No. 2210 OF20143 of the requirements as per the specification, will there be the steps for disbursement of the due amounts. It is further added that, if at all any lapse/reduction in the area is there, pro-rata reduction will be made from the amounts payable to the contractor. Various instances of the infrastructure set up by the 4th respondent, wherein some defects were noted, have been given in the statement.

3. After hearing both the sides, this Court does not find it necessary to adjudicate the issue on merits, as it is always open for the respondents to proceed with appropriate steps to safeguard the rights and interests of the Department and the public money involved. Further course of action, depending upon the gravity of the lapse, if at all any, on the part of the 4th respondent is a matter to be considered by the competent authority. In the said circumstance, the petitioner is set at liberty to file proper representation, if aggrieved in any manner, before the third respondent/the Director of Public Instructions, within two weeks, upon which the same shall be considered and appropriate orders shall be passed, after affording an opportunity W.P.(C)No. 2210 OF20144 of hearing to the petitioner and also to the 4th respondent/Yousuf with regard to the actual facts and figures.. The writ petition is disposed of. P.R.RAMACHANDRA MENON JUDGE lk

