

Suharabi vs Administrator

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Court : Kerala

Decided On : Mar-06-2024

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/41477/2016

Appellant : Suharabi

Respondent : Administrator

Judgement :

WP(C) NO. 41477 OF 2016 1

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
WEDNESDAY, THE 6TH DAY OF MARCH 2024 / 16TH PHALGUNA,
1945 WP(C) NO. 41477 OF 2016 PETITIONER/S: SUHARABI
W/O.ABDULLA KOYA THANGAL, PATTAKKAL HOUSE, AMINI ISLAND
PO, UT OF LAKSHA DEEP, PIN 682552 BY ADVS.
SRI.C.N.SREEKUMAR SRI.ANIL PRASAD SMT.MANJU PAUL
SRI.SABU P.JOSEPH RESPONDENT/S:

1 ADMINISTRATOR U.T OF LAKSHADEEP, COLLECTORATE, KAVARATHY ISLAND PO, U.T. OF LAKSHADEEP, PIN 682555 2 EXECUTIVE ENGINEER DIVISIONAL OFFICE, LAKSHWADEEP ELECTRICITY DEPARTMENT, KAVARATHI ISLAND, KAVARATHI PO, U.T. OF LAKSHADEEP, PIN 682555 3 ASSISTANT ENGINEER SUB DIVISIONAL OFFICE, LAKSHADWEEP ELECTRICITY DEPARTMENT, KAVARATHI ISLAND, UT OF LAKSHADWEEP, PIN CODE 682555 4 UNION OF INDIA REPRESENTED BY THE ASSISTANT SOLICITOR GENERAL, HIGH COURT OF KERALA. [SUBSTITUTED][ADDRESS OF THE 4TH RESPONDENT IS SUBSTITUTED AS 'UNION OF INDIA, WP(C) NO. 41477 OF 2016 2 REPRESENTED BY SECRETARY- UNION TERRITORIES, MINISTRY OF HOME AFFAIRS, CENTRAL SECRETARIAT', NEW DELHI- 110001, AS PER ORDER DATED 27/01/2017 IN IA.1279/17.] 5 ADDL.R5:THE DIRECTOR , THE DIRECTOR, SCIENCE AND TECHNOLOGY, KAVARATTI ISLAND, UNION TERRITORY OF LAKSHADWEEP, PIN-682555 (IS IMPEADED AS PER ORDER DATED 02-11-2022 IN IA 6 ADDL.R6. INDIAN OIL CORPORATION REPRESENTED BY ITS CHAIRMAN, INDIAN OIL BHAVAN, G-9, ALI YAVAR JUNG MARG, BANDRA (EAST), MUMBAI - 400051.

7 ADDL.R7.THE GENERAL MANAGER INDIAN OIL CORPORATION LIMITED, ANAMPILLY AVENUE, PANAMPILLY NAGAR P.O., PIN-682036, ERNAKULAM (ADDL.R6 AND R7 ARE IMPEADED AS PER ORDER DATED 05.12.2022 IN IA NO.3/2022.) BY ADVS. SRI.MANU.S, SCGC, ADMINISTRATION OF THE UNION TERRITORY OF LAKSHADWEEP SHRI.SAJITH KUMAR V., SC, LAKSHADWEEP ADMINISTRATION ASSISTANT SOLICITOR GENERAL ANIL PRASAD No Advocate SRI.MANU.S, CGC, ADMINISTRATION OF THE UNION TERRITORY OF LA Gopikrishnan Nambiar M K.JOHN MATHAI(K/413/1984) JOSON MANAVALAN(J-526) KURYAN THOMAS(K/131/2003) PAULOSE C. ABRAHAM(MAH/58/2006) RAJA KANNAN(K/356/2008) THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 06.03.2024, THE COURT ON THE SAME

DAY DELIVERED THE FOLLOWING: WP(C) NO. 41477 OF 2016 3
P.V.KUNHIKRISHNAN, J ----- W.P.(C.) No.
41477 of 2016 ----- Dated this the 6th day of
March, 2024

JUDGMENT

The above writ petition is filed with following prayers : i. Issue a writ of mandamus or any other appropriate writ,

order or direction directing the respondents to shift the diesel

storage yard of Lakshadweep Electricity Department to any other suitable area with proper safety measures as early as possible; ii. Issue a writ of mandamus or any other appropriate writ,

order or direction directing the respondents to close down the

unauthorisedly functioning the diesel storage yard of Lakshadweep Electricity Department with immediate effect;

iii. Issue such other orders or directions, which in the facts

and circumstances of the case, this Hon'ble Court deems fit to grant. [sic]

2. The petitioner is aggrieved by the storage of large

quantity of diesel barrel in the adjacent land of his property by the Lakshadweep Electricity department without following any WP(C) NO. 41477 OF 2016 4 precautions and security as stipulated by the law. It is submitted that the adjacent property of the petitioner is used as a diesel storage yard of the Electricity Department. The department started to store huge quantity of diesel barrels in the property without following any safety measures as prescribed by the law to evade accidents and disaster is the submission. It is also submitted that the area of the yard is surrounded by several residential buildings and it is a highly populated area. Thousands of diesel barrels are stocked in the open land without any safety

precautions is the submission. It is also submitted that no permission is obtained from the authorities for the storage of large quantity of diesel in the said yard is the submission. It is submitted that the petitioner has submitted several oral and written representation to the 1 st respondent to shift the storage area from this place to any other place without affecting human life and environment. So far, no action is taken by the 1st respondent is the submission. It is also submitted that the public are living in a highly WP(C) NO. 41477 OF 2016 5 polluted atmosphere with threat to life because of this diesel storage yard. Hence, this writ petition.

3. Heard the learned counsel for the petitioner, learned Standing Counsel appearing for the Lakshadweep Administration and also the learned Standing Counsel appearing for the Indian Oil Corporation.

4. After hearing the counsel appearing for the petitioner

and after going through the pleadings in the writ petition, I am of the considered opinion that the grievance raised by the petitioner is to be considered by the 1 st respondent. To facilitate the 1st respondent to consider the grievance, the petitioner can be allowed to file a representation and the 1 st respondent can be directed to consider the same within a time frame. Therefore, this Writ petition is disposed of in the following manner:

1. The petitioner is free to submit a representation before

the 1st respondent narrating her grievance raised in WP(C) NO. 41477 OF 2016 6 this writ petition, within one month from the date of receipt of a certified copy of this judgment.

2. Once such a representation is received, the 1 st

respondent will consider the same, after giving an opportunity of hearing to the petitioner and other affected parties and pass appropriate orders in it, as expeditiously as possible, at any rate, within a period of three months from the date of receipt of the representation.

3. Petitioner will produce a certified copy of this judgment

along with a copy of this writ petition with exhibits before the 1st respondent for compliance. Sd/- P.V.KUNHIKRISHNAN JUDGE SKS/DM WP(C) NO. 41477 OF 2016 7 APPENDIX OF WP(C) 41477/2016 PETITIONER EXHIBITS EXHIBIT P1 TRUE PHOTOGRAPH OF THE DIESEL YARD OF THE LAKSHADWEEP ELECTRICITY DEPARTMENT OF KAVARATHI EXHIBIT P2 TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE RESPONDENT 1 AND 2 BY THE PETITIONER EXHIBIT P3 TRUE COPY OF THE POSTAL ACKNOWLEDGEMENT RECEIVED FROM THE 1ST RESPONDENT EXHIBIT P4 TRUE COPY OF THE POSTAL ACKNOWLEDGEMENT RECEIVED FROM THE 2ND RESPONDENT EXHIBIT P5. TRUE COPY OF THE REPRESENTATION SUBMITTED BEFORE THE SUB. DIVISIONAL OFFICER, AMINI ISLAND. EXHIBIT P6. TRUE COPY OF THE DIRECTION ISSUED TO THE

ASSISTANT ENGINEER, DEPARTMENT OF ELECTRICITY BY THE ENVIRONMENT ASSISTANT, DEPARTMENT OF ENVIRONMENT AND FOREST, LAKSHADWEEP ADMINISTRATION. EXHIBIT P7. TRUE COPY OF THE HANDING OVER LETTER NO.F.NO.14/4/2004-SDO DATED 16.09.2011 WITH SKETCHES OF THE LAND ACQUIRED SENT TO THE ASSISTANT ENGINEER (ELE).

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