

Bindhu V vs State of Kerala

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Court : Kerala

Decided On : Jun-01-2023

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/11533/2023

Appellant : Bindhu V

Respondent : State of Kerala

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
THURSDAY, THE 1ST DAY OF JUNE 2023 / 11TH JYAISHTA, 1945
WP(C) NO. 11533 OF 2023 PETITIONER/S: BINDHU V, AGED 40
YEARS W/O. SASI, KUNNILAVILAVEEDU PALACHIRA P.O.,
VARKALA, THIRUVANANTHAPURAM,, PIN - 695141 BY ADVS.
S.JATHIN DAS M.ZIYAD T.A.PRAKASH ARUN S. RESPONDENT/S:

1 STATE OF KERALA REPRESENTED BY ITS SECRETARY, PUBLIC
WORKS DEPARTMENT, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM, PIN - 695001 2 THE CHIEF ENGINEER
PUBLIC WORKS DEPARTMENT ROAD SECTION, PWD OFFICE,

VELLAYAMBALAM THIRUVANANTHAPURAM, PIN - 695010 3
ASSISTANT ENGINEER P.W.D. ROAD SECTION, VARKALA,
THIRUVANANTHAPURAM, PIN - 695141 4 SECRETARY
CHERUNNIYOOR GRAMA PANCHAYATH, CHERUNNIYOOR P.O,
VARKALA, THIRUVANANTHAPURAM, PIN - 695142 BY ADV Sasith M
R

OTHER PRESENT: SMT.VIDYA KURIAKOSE, GP, SRI.M.R.SASITH
PANICKER, SC THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 01.06.2023, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING: -2-

P.V.KUNHIKRISHNAN, J.

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W.P.(C)	No.	11533	of	2023
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Dated this the 1st day of June, 2023

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 3 and 4 to allow

the petitioner to relocate the bunk in front of the Mosque, Near Kallambalam Bus Stop at Palachira, Varkala and not to disturb the right of freedom of trade and business of the petitioner; ii) Issue a writ of mandamus or any other appropriate writ,

order or direction directing the respondents to permit the

petitioner to shift her bunk to the new place suggested by the petitioner; iii) Issue a writ of mandamus or any other appropriate writ,

order or direction directing the 3rd respondent to consider

Exhibit P8 representation within a time frame; iv) Grant such other reliefs and costs as this Hon'ble court may deem fit and proper in the facts and circumstances of this case; and v) To dispense with translation of filing of vernacular documents. (sic) -3-

2. It is submitted that the petitioner is a self-employed,

and differently abled lady and mother of two girls. The elder daughter is a mentally retarded girl and the younger daughter is a plus two student. The petitioner is the only bread winner of her family and her husband is medically unfit for doing any permanent job. On considering the disability of the petitioner and her pathetic family situation the 4th respondent sanctioned financial assistance to the petitioner to conduct a bunk/small snack and tea shop. It is submitted that, after obtaining sanction and financial assistance from the 4th respondent, the petitioner started a bunk at the road side of Varkala- Kallambalam PWD Road. It is the case of the petitioner that the respondents are not allowing the petitioner to conduct her bunk at the present place. It is also submitted that on 30.05.2019, the 3rd respondent with other officials of his office approached the petitioner and shouted at her and told her that they will demolish the bunk within two days. It is submitted that the petitioner, is now unable to conduct her bunk at -4- the present place. It is also submitted that, after the Covid pandemic lock down period, she is facing financial problems to pay her loan amount to Kerala State Financial Enterprises Ltd., from where she availed loan to run the bunk. It is also stated that the said loan amount became overdue and the KSFE issued recovery notice to the petitioner. It is submitted that the petitioner found out another vacant place in front of the Mosque, Near Kallambalam Bus Stop at Palachira, Varkala and informed to the 3rd and 4th respondent to conduct her bunk there and requested for allowing her to shift her to the said vacant place. This place is about 10 meters away from the road and will not make any obstruction to the pedestrians as well as to the vehicular traffic, is the submission. The 4th respondent informed the petitioner that, they have no objection to accommodate her in the place suggested by the petitioner. But that place also belongs to the 3 rd respondent PWD. In this juncture, the petitioner filed

a representation before -5- the 3rd respondent on 17.01.2023 and the same is not considered till date. Hence this writ petition.

3. Heard the counsel for the petitioner and the Government Pleader.

4. After hearing both sides, I am of the considered

opinion that the 3rd and 4th respondents should redress the grievance of the petitioner. A convenient place should be allotted to the petitioner for conducting the bunk without obstructing the road traffic and the pedestrian rights. To facilitate the 3rd and 4th respondents to do the same, the petitioner will submit a representation before the 3rd and 4th respondents separately. The 3rd and 4th respondents, in consultation with each other, will redress the grievance of the petitioner. Therefore, this writ petition is disposed of in the following manner: -6-

1. The petitioner is free to submit a representation before the 3rd and 4th respondents within two weeks from the date of receipt of a certified copy of this judgment.

2. Once such a representation is received, the 3rd and 4th respondents will consult each other and allow a convenient place to the petitioner for conducting her bunk.

3. Till such orders are passed, the present bunk

functioning shall not be interfered by the respondents. sd/- P.V.KUNHIKRISHNAN
JUDGE
das -7- APPENDIX OF WP(C) 11533/2023 PETITIONER EXHIBITS
Exhibit P1 TRUE COPY OF THE DISABILITY CERTIFICATE DATED 26.10.2016
ISSUED IN THE NAME OF PETITIONER BY THE DEPARTMENT OF HEALTH
SERVICES Exhibit P2 TRUE COPY OF THE DISABILITY CERTIFICATE DATED
26.10.2016 ISSUED IN THE NAME OF PETITIONER'S DAUGHTER BY THE
DEPARTMENT OF HEALTH SERVICES Exhibit P3 TRUE COPY OF THE
LETTER DATED 13.6.2018 ISSUED BY THE 4TH RESPONDENT Exhibit P4
TRUE COPY OF THE CERTIFICATE DATED 16.5.2018 ISSUED BY THE 4TH
RESPONDENT Exhibit P5 TRUE COPY OF THE LETTER ISSUED BY THE 3RD
RESPONDENT TO THE PETITIONER DATED NIL Exhibit P6 PHOTOGRAPH

SHOWING THE BUNK RUNNING BY THE PETITIONER Exhibit P7 TRUE COPY OF THE RECOVERY NOTICE DATED 23.9.2022 ISSUED BY THE KSFE Exhibit P8 TRUE COPY OF THE REPRESENTATION DATED 17.1.2023 SUBMITTED BY THE PETITIONER BEFORE THE 3RD RESPONDENT Exhibit P9 PHOTOGRAPH SHOWING THE PLACE SUGGESTED BY THE PETITIONER TO SHIFT HER BUNK

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