

Jayan.M vs Ombudsman

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Court : Kerala

Decided On : Jun-09-2022

Judge : Honourable Mr. Justice P.V.Kunhikrishnan

Appeal No. : WP(C)/13330/2022

Appellant : Jayan.M

Respondent : Ombudsman

Judgement :

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
THURSDAY, THE 9TH DAY OF JUNE 2022 / 19TH JYAISHTA, 1944
WP(C) NO. 12002 OF 2022 PETITIONER: LALITHA A.K AGED 55
YEARS W/O. LATE K.KRISHNANKUTTY, NELLIKUNNATHU HOUSE,
AKAMPADAM P.O., KUMARANELLUR, THRISSUR DISTRICT, PIN-680
590, PRESENTLY WORKING AS HEAD CLERK, AVANOR GRAMA
PANCHAYATH, MEDICAL COLLEGE P.O., VELLAPPAYA, THRISSUR
,PIN-680 596 BY ADVS. GEORGE SEBASTIAN ARUN LUCKOSE
ABRAHAM RESPONDENTS:

1 STATE OF KERALA REPRESENTED BY THE SECRETARY TO THE DEPARTMENT OF LOCAL SELF GOVERNMENT, SECRETARIAT, THIRUVANANTHAPURAM, PIN-695 001 2 THE OMBUDSMAN MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT GUARANTEE SCHEME, DSMS BUILDING, NEAR ESI HOSPITAL, PULLAZHY P.O., OLARI, THRISSUR-680 012 3 THE AVANOR GRAMA PANCHAYAT, REPRESENTED BY ITS SECRETARY, MEDICAL COLLEGE P.O., VELLAPPAYA, THRISSUR ,PIN-680 596 4 ANTO.K.JOHN, KOLAMBRATH HOUSE, AVANOR P.O., VARADIYAM, THRISSUR DISTRICT, PIN-680 541 BY ADV C.A.ANOOP, SMT.K.R.DEEPA, SR.SPL.GP (LSGD)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09.06.2022, ALONG WITH WP(C).13330/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT THE HONOURABLE MR. JUSTICE P.V.KUNHIKRISHNAN
THURSDAY, THE 9TH DAY OF JUNE 2022 / 19TH JYAISHTA, 1944
WP(C) NO. 13330 OF 2022 PETITIONERS:

1 JAYAN.M AGED 54 YEARS S/O. M. ACHUTHA MENON, MARATH (H), P.O, ARIMBOOR - 680620, PANCHAYTH SECRETARY, AVANUR GRAMA PANCHAYATH. 2 VINU, AGED 46 YEARS S/O.MANI, GEETHANJALI, KUNJALIKKALLANE, AYYANTHOLE - 680003, ASSISTANT SECRETARY, AVANUR GRAMA PANCHAYATH. 3 PREETHY M.R, W/O. RAJESH, ALAKKURI PARAMBIL (H), MANITHARA, MEDICAL COLLEGE P.O, 680596, ACCREDITED ENGINEER, AVANUR GRAMA PANCHAYATH. 4 BINDU K.S, AGED 43 YEARS W/O. JAYARAJAN K.P, KURIAKOTT(H), VARADIYAM P.O, AVANUR - 680541, OVERSEER, AVANUR GRAMA PANCHAYATH.

BY ADVS. K.B.GANGESH GEORGE SEBASTIAN RESPONDENTS: 1 OMBUDSMAN OFFICE OF THE OMBUDSMAN, MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT GUARANTEE SCHEME, DSMS, BUILDING, NEAR ESI HOSPITAL, PULLAZHI, OLARI P.O, - 680012. 2 ANTO K. JOHN, AGED 42 YEARS S/O. JOHNY P.M, KOLAMBRATH (H), (11/475A), AVANOR P.O, THRISSUR -680541. 3 DISTRICT COLLECTOR DISTRICT COLLECTOR OFFICE, 1ST FLOOR, CIVIL STATION, KALYAN NAGAR, AYYANTHOLE - 680003. 4 AVANUR GRAMA PANCHAYATH REPRESENTED BY ITS SECRETARY, PANCHAYATH OFFICE, AVANUR, THRISSUR - 680541. OTHER PRESENT: SMT.K.R.DEEPA , SPL.GP(LSGD) THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09.06.2022, ALONG WITH WP(C).12002/2022, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

P.V.KUNHIKRISHNAN, J.

----- W.P.(C).Nos.12002 & 13330 of 2022
----- Dated this the 09th day of June, 2022

JUDGMENT

These two writ petitions are connected and therefore, I am disposing these writ petitions by a common judgment.

2. Petitioner in W.P.(C). No.12202 of 2022 is the Head

Clerk of the 3rd respondent Grama Panchayat. Petitioners in W.P.(C). No.13330 of 2022 are the Secretary, Assistant Secretary, Accredited Engineer and Overseer of the same Grama Panchayat. Both these writ petitions are filed against an order passed by the Ombudsman for Mahatma Gandhi National Rural Employment Guarantee Scheme (for short, Ombudsman). Ext.P4 produced in W.P.(C). No.12202 2022 (Ext.P7 in W.P.(C). No.13330 of 2022) is the impugned order.

3. The procedure to be followed by the Ombudsman is

clearly stated in Ext.P5 in W.P.(C.) No.12202 of 2022. It is an admitted fact that the impugned orders in these writ petitions are passed behind the back of the petitioners. There are certain directions/recommendations issued in the impugned orders against the petitioners. But, it is an admitted fact that these orders are passed without giving an opportunity of hearing to the petitioners. A perusal of Ext.P5 guidelines, which is produced in W.P.(C.) No.12202 also 2022 also will show that an opportunity of being heard is necessary after serving a copy of the complaint and other documents. Therefore, without going to the merit of the case, the impugned orders can be set aside directing the Ombudsman to reconsider the matter after giving an opportunity of hearing to the petitioners and the Panchayat concerned. The Ombudsman will furnish a copy of the complaint and other documents which are going to be relied on, to the petitioners and other affected parties. Therefore, this writ petition is allowed in the following manner:

1. Ext.P4 in W.P.(C). No.12202 of 2022 (Ext.P7 in W.P.(C). No.13330 of 2022) is set aside.

2. The Ombudsman for Mahatma Gandhi

National Rural Employment Guarantee Scheme is directed to reconsider the matter afresh, after giving an opportunity of hearing to the petitioners, Panchayat and other affected parties in accordance to the

guidelines.

3. Before passing final orders, the Ombudsman will serve a copy of the complaint and other documents which are going to be relied on by him to the petitioners

4. The petitioners are free to adduce oral and

documentary evidence. Sd/- P.V.KUNHIKRISHNAN JV JUDGE APPENDIX OF WP(C) 12002/2022 PETITIONER EXHIBITS Exhibit P1 A TRUE COPY OF THE COMPLAINT DATED 11.2.2022 FILED BY THE 4TH RESPONDENT BEFORE THE 3RD RESPONDENT Exhibit P2 A TRUE COPY OF THE NOTICE DATED 26.2.2022 ISSUED BY THE 2ND RESPONDENT TO THE SECRETARY OF THE 3RD RESPONDENT Exhibit P3 A TRUE COPY OF THE STATEMENT DATED

2.3.2022 OF THE PETITIONER RECORDED BY THE 2ND RESPONDENT Exhibit P4 TRUE COPY OF THE AWARD DATED 11.2.2022 PASSED BY THE 2ND RESPONDENT Exhibit P5 A TRUE COPY OF THE INSTRUCTIONS FOR OMBUDSMAN ISSUED BY THE MINISTRY OF RURAL DEVELOPMENT , MAHATMA GANDHI NFEGA DIVISION DATED 28.8.2017

APPENDIX OF WP(C) 13330/2022 PETITIONER EXHIBITS Exhibit P1 THE TRUE COPY OF THE STATEMENT GIVEN BY THE REGULAR WOMEN WORKERS UNDER THE EMPLOYMENT, GUARANTEE SCHEME DATED 28.2.2022. Exhibit P2 TRUE COPY OF THE PHOTOGRAPHS OF THE POND. Exhibit P3 THE TRUE COPY OF THE REPORT SUBMITTED BY THE PETITIONER TO THE 1ST RESPONDENT DATED 04.03.2022. Exhibit P4 THE TRUE COPY OF THE STATEMENT REPORT SUBMITTED BY THE WARD MEMBER TO THE BLOCK PROGRAMME OFFICER. Exhibit P5 THE TRUE COPY OF THE STATEMENT GIVEN BY THE WORKERS IN THE SAID PROJECT. Exhibit P6 THE TRUE COPY OF THE ORDER IN WP(C) Exhibit P7 COPY OF THE ORDER OF THE 1ST RESPONDENT DATED 25.03.2022.

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