

**C.J. Development Foundation Vs. the State of Kerala,**

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**SooperKanoon Citation :** [sooperkanoon.com/903175](http://sooperkanoon.com/903175)

**Court :** Kerala

**Decided On :** Feb-02-2010

**Judge :** Thottathil B. Radhakrishnan, J.

**Appeal No. :** W.P. (C). No. 33628 of 2009 (W)

**Appellant :** C.J. Development Foundation

**Respondent :** The State of Kerala,; the Director of Fisheries, Govt. of Kerala,; the Union of India (Uoi) And; the

**Advocate for Def. :** John Varghese, Adv.

**Advocate for Pet/Ap. :** V. Jayakumar, Adv.

**Judgement :**

**Thottathil B. Radhakrishnan, J.**

1. On 5.1.2008, the Additional Secretary to Government of Kerala in the Disaster Management (TRP-Cell) Department issued Ext.P10 issuing Government sanction to distribute fishing boats to fishermen societies having maximum number of fishermen registered before Tsunami, now functioning and who have lost boats in Tsunami. The first priority was directed to be given to societies who lost their fishing vessels in Tsunami and yet to be compensated. The remaining boats were directed to be distributed to the fishermen societies following transparent process.

The said decision of the Government was preceded by fixation of norms for selection of beneficiaries following the Cabinet Sub Committee decision on 14.11.2007 to allot the boats in district-wise manner identifying fishermen groups. Much prior to that, on 8.2.2007, the Government issued GO(Rt). No. 62/07/F & PD whereby Fisheries and Ports Department had issued guidelines for the distribution of 20 numbers of fibre glass fishing boats donated by M/s. C.J. Foundations to the Tsunami affected fishermen in the State. It appears that the petitioner CJ Foundation was just the facilitator of the movement of the boats from international donors to the actual recipients in the State of Kerala. It is submitted by the learned Counsel for the petitioner that the original agreement was with the donors and that the petitioner is not even an inter-meddler making any profit out of the transaction.

2. Disaster management, aid to the victims etc. have now snow-balled into a Damocles's sword hanging over the petitioner's head in the form of demand of excise duty and also the burden to take care of the 20 boats which have been brought into the Indian territory. With the passage of time, in the coastal area we can easily visualise that these boats would turn to be useless, if not put to proper use within reasonable time. Therefore, it will not be in the interest of the State or the intended beneficiaries to let the boats continue to lie idle without finalising the import procedures and also without handing over the same to the needy in terms of the Government decisions. Hence, this writ petition is ordered directing the State of Kerala and respondent No. 2 to ensure that the final action following Ext.P10 is done within a period of three months, without fail and reported to this Court in the form of an affidavit before the Registrar General of this Court as may be filed by the second respondent. Respondents 3 and 4 are directed to hold back any penal action against the petitioner or against the aforesaid vessels on account of the transaction in question taking into consideration that the facts disclosed are extra-ordinary circumstances.