



2024:KER:94833

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE MR.JUSTICE ZIYAD RAHMAN A.A.

THURSDAY, THE 12TH DAY OF DECEMBER 2024/21ST AGRAHAYANA, 1946

WP(C) NO. 41204 OF 2024

PETITIONER/S:

VALSA RAJAN,
AGED 56 YEARS
W/O. T.P. RAJAN,
POIKKATTIL HOUSE,
PINDIMANA VILLAGE,
BHOOHATHANKETTU (P.O) ,
ERNAKULAM DISTRICT,
PIN - 686681

BY ADVS.
VIVEK VENUGOPAL
GAJENDRA SINGH RAJPUROHIT
ATHUL POULOSE

RESPONDENT/S:

- 1 STATE OF KERALA,
REPRESENTED BY THE PRINCIPAL SECRETARY TO
GOVERNMENT, DEPARTMENT OF LOCAL SELF GOVERNMENT
INSTITUTIONS, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM,
PIN - 695001
- 2 THE PINDIMANA GRAMA PANCHAYATH COMMITTEE,
PINDIMANA GRAMA PANCHAYATH
OFFICE, PINDIMANA (P.O) , ERNAKULAM DISTRICT,
REPRESENTED BY ITS PRESIDENT,
PIN - 686698



3 THE SECRETARY,
PINDIMANA GRAMA PANCHAYATH, PINDIMANA GRAMA
PANCHAYATH OFFICE, PINDIMANA (P.O), ERNAKULAM
DISTRICT, PIN - 686698

OTHER PRESENT:

Adv.Devi Shri.R, G.P,
Adv. Basil Chandy Vavachan, SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 12.12.2024, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:



JUDGMENT

The petitioner who intends to start a poultry farm in a property shown in Ext.P10, has approached this Court being aggrieved by the inaction on the part of the 3rd respondent, Secretary to the 2nd respondent Panchayath in considering Ext.P7 application for licence. Apparently, the application submitted by the petitioner is not being considered by the Panchayath on the reason that, earlier the Panchayath was interdicted, by this Court as per Exts.P1 to P3 judgments from granting licence to the poultry farm to the petitioner's husband in the very same property on the reason that, as per then existing Rule which is Rule 3(4) of the Kerala Panchayath Raj (Licensing of Livestock Farms), Rules 2012, no licence could be granted to the poultry farms which are situated within a distance of 4 kilometres from any birds sanctuary. This Court found in the said judgment that the petitioner's husband's farm is situated within the said distance and therefore the licence cannot be granted.



3. However, the case of the petitioner is that now, by virtue of the amendment brought to the statutory provisions as per Ext.P6 notification in the gazette which is dated 28.07.2024, the Rule 3(4) has been substituted with another provisions, whereby the restrictions which was originally in existence are no longer in existence. Therefore it was contended by the petitioner that, in the light of the subsequent amendment to the Rule, the application submitted by the petitioner for licence for starting a poultry farm is to be considered.

3. Heard, Sri.Gajendra Singh Rajpurohit, the learned counsel appearing for the petitioner and Sri. Basil Chandy Vavachan, the learned counsel appearing for the respondent-Panchayath.

3. The only question to be considered is whether the petitioner is legally entitled to seek licence for conducting a poultry farm in the premises as sought by her. The only impediment highlighted by the respondent is that, the right of the petitioner to conduct the poultry farm is governed by Ext.P1



to P3 judgments rendered against the petitioner as well as her predecessor. However, the crucial aspect to be noticed is that, all the said judgments were rendered in the light of the statutory stipulation then in existence which prohibited establishment of poultry farm within 4 kilometres from any birds sanctuary and as the petitioner's property is situated within the prohibited distance from Thattekkad Birds Sanctuary. However, now the Rule has been amended by way of Ext.P6 notification by which the Rule 3(4) has been substituted and hence that restriction is no longer in existence. Therefore, the judgments rendered by this Court Exts.P1 to P3, by applying the statutory rights then existence, cannot be treated as an embargo in considering the application submitted by the petitioner.

In such circumstances, this writ petition is disposed of, directing the 3rd respondent to consider Ext.P7 application submitted by the petitioner and grant the licence to the petitioner, if the petitioner is satisfying all other criteria relevant for the same. The necessary orders in this regard shall be

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passed within a period of one month from the date of receipt of
a copy of this judgment.

Sd/-

ZIYAD RAHMAN A.A.
JUDGE

rpk



APPENDIX OF WP(C) 41204/2024

PETITIONER EXHIBITS

- | | |
|-------------------|--|
| Exhibit P1 | TRUE COPY OF THE JUDGMENT PASSED BY THIS HON'BLE COURT IN W.P (C) NO. 21090/2016 DATED 29.11.2016 |
| Exhibit P2 | TRUE COPY OF THE JUDGMENT PASSED BY THE DIVISION BENCH OF THIS HON'BLE COURT IN W.A NO. 1759/2017 DATED 28.01.2020 |
| Exhibit P3 | TRUE PHOTO COPY OF THE JUDGMENT PASSED BY THIS HON'BLE COURT IN WP(C)NO.27624/2023 DATED 01.12.2023 |
| Exhibit P4 | TRUE COPY OF THE ABOVE JUDGMENT PASSED BY THE DIVISION BENCH OF THIS HON'BLE COURT IN W.A NO. 288/2024 DATED 18.03.2024 |
| Exhibit P5 | TRUE PHOTO COPY OF THE KERALA PANCHAYATH RAJ (LICENSING OF LIVESTOCK FARMS), RULES 2012 |
| Exhibit P6 | TRUE PHOTO COPY OF THE GAZETTE NOTIFICATION DATED 28.07.2024 |
| Exhibit P7 | TRUE PHOTO COPY OF THE APPLICATION DATED 06.11.2024 SUBMITTED BEFORE THE 3RD RESPONDENT |
| Exhibit P8 | TRUE PHOTO COPY OF THE ACKNOWLEDGEMENT RECEIPT DATED 07.11.2024 ISSUED BY THE 2ND RESPONDENT PANCHAYATH |
| Exhibit P9 | TRUE PHOTO COPY OF THE REPLY DATED 07.11.2024 ISSUED BY THE 3RD RESPONDENT |

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Exhibit P10

**TRUE PHOTO COPY OF THE SITE PLAN OF THE
POULTRY FARM OF THE PETITIONER**

Exhibit P11

**TRUE PHOTO COPY OF THE RECEIPT ISSUED
BY THE DISTRICT MEDICAL OFFICER,
ERNAKULAM**