

(1965) 10 KL CK 0001
In the High Court Of Kerala
Case No : O. P. 1100 of 1964

Abraham

APPELLANT

Vs

Executive Officer, Peruvanthanam Panchayat

RESPONDENT

Date of Decision : 06-10-1965

Acts Referred:

Kerala Panchayat Act, 1960 — Section 69(4)

Citation : (1965) KLJ 998

Hon'ble Judges : P. Govindan Nair, J

Bench : Single Bench

Advocate : Joseph Augustine, for the Appellant; K. Velayudhan Nair, K.J. Joseph, M. C. Sen, for the Respondent

Final Decision : Allowed

Judgement

1. The petitioner it is stated by counsel on behalf of the petitioner, has paid profession tax to the Perinad Panchayat for the half years comprised in the years 1959-1960, 1960-1961, 1961-1962 and 1962-1963 at the rate of Rs. 125/- for the first four half years and at the rate of Rs. 75/- for remaining half years, comprised in these four years. The executive Officer of the Perinad Panchayat is the respondent to this writ application. Perinad Panchayat demanded the profession tax from the petitioner for the eight half years. When demand has been made for the first four half years, the petitioner made Ext. P. 2 representation. The reply to this was another demand for all the four years, Ext. P. 3. There, was a further representation Ext. P. 4 and the answer was a summons, from a Magistrate's Court Ext. P. 5, apparently upon a complaint that has been launched by the Perinad Panchayat. It is clear from Section 69(4) of the Kerala Panchayats Act, 1960, that a person cannot be held liable to two Panchayats for profession tax for the same half year if he has already paid total tax due from him to one of the Panchayats which can assess. That the total tax due from the petitioner has been paid to the Perinad Panchayat is fairly conceded by counsel on behalf of the respondent before me. The action taken against the

petitioner therefore by demanding tax from him and later prosecuting him for not paying tax is quite unwarranted. I would have therefore compensated the petitioner in full measure for such wanton abuse of the statutory powers. However, since counsel for the respondent stated before me that the whole thing was a mistake, I think I should not go to that extent. However it cannot be said that in such matters the petitioner should go without any compensation for all the troubles to which he has been put.

2. In the light of the above I allow this Writ application and quash Ext. P. 3 demand notice issued to the petitioner. I also direct that the respondent should take immediate steps for withdrawal of the complaint made before the Magistrate. I allow this writ application in these terms. I further direct that the respondent should pay the cost of the petitioner as well as counsel's fee Rs. 150/-.