

(2014) 06 KL CK 0053
In the High Court Of Kerala
Case No : W.P. (C) No. 13977 of 2014 (V)

Asharaf Parakuth

APPELLANT

Vs

The Kondotty Grama Panchayath

RESPONDENT

Date of Decision : 10-06-2014

Acts Referred:

Kerala Panchayat Raj Act, 1994 — Section 227

Citation : (2014) 06 KL CK 0053

Hon'ble Judges : C.T. Ravi Kumar, J

Bench : Single Bench

Advocate : Babu S. Nair and Smt. Smitha Babu, Advocate for the Appellant;
Sanjeetha K.A. by Government Pleader for R2 and R3, Advocate for the
Respondent

Judgement

C.T. Ravikumar, J.—The petitioners are autorickshaw drivers and in fact, they are also respectively the President and Secretary of the Autorickshaw Drivers Union at Airport Junction at Kondotty in Malappuram District. The contention of the petitioners is that the road side near Airport Junction has been the halting place of autorickshaws for the past two decades and thereabouts. There is sufficient space available on the road margin to park autorickshaws, it is contended. Earlier, one Abdul Azeez, Proprietor of M/s. Mythri Hotel, near Calicut Airport filed W.P. (C) No. 3535 of 2014 alleging unauthorised parking of autorickshaws in front of his hotel causing hindrance to the ingress and egress into the hotel. After considering the contentions in detail especially, in the light of the Division Bench decision of this Court in Ummer Farookh Vs. Station House Officer and Others, that writ petition was disposed of with a direction to the Regional Transport Authority to take steps in the matter with the participation of the Local Self Government Institutions and the 2nd respondent therein and to specify a parking area. Going by the decision the locality for the same was to be pointed out by the Local Self Government Institution. The respondents were also directed to ensure that no parking is carried on in the premises which is objected to by the petitioner. Pursuant to Ext.P3 judgment, virtually, the first respondent Panchayat

identified such a locality and passed Ext.P4 resolution dated 3.3.2014. As per the same, taking into account the fact that autorickshaws have been parking at the Airport Junction (Newman Junction) for about 20 years, road side in the said junction after leaving 1.5 metres from the footpath has been identified as the parking place for autorickshaws with KLR registration and the said decision was communicated to the Regional Transport Authority. According to the petitioners, after Ext.P4 resolution the petitioners and the other autorickshaw drivers who had been parking their autorickshaws in the area in question continued to park their autorickshaws in the said area identified by the Panchayat as per Ext. P4 resolution in terms of the provisions u/s 227 of the Kerala Panchayat Raj Act read with Rule 344 of the Kerala Motor Vehicles Rules, 1989. Their grievance is that despite Ext.P4 resolution the third respondent is not permitting the petitioners and others to park their autorickshaws in the locality identified by the first respondent Panchayat. It is in the said circumstances that the captioned writ petition has been filed.

2. I have heard the learned counsel for the petitioners, the learned standing counsel appearing for the first respondent and also the learned Government Pleader.

3. In view of the order I propose to pass in this writ petition I do not think it necessary to issue notice to the first respondent in this proceedings. I have already adverted to the decision in Ext.P4 resolution and it does not violate the directions in Ext.P3 judgment and now, it is for the Regional Transport Authority to take a decision based on Ext.P4.

4. Learned Government Pleader, on instructions, submitted that the second respondent received copy of Ext.P4 resolution passed by the first respondent Panchayat. Going by the directions in Ext.P3 upon identification of the locality by the Local Self Government Institution the second respondent is bound to take a decision with the participation of the 3rd respondent, as well.

In the above circumstances, this writ petition is disposed of with a direction to the second respondent to comply with the directions in terms of Ext.P3 judgment and pass appropriate orders looking into Ext.P4 resolution passed by the first respondent expeditiously and in accordance with law, at any rate, within a period of one month from the date of receipt of copy of this judgment. Taking note of the fact that as per Ext.P4 resolution autorickshaws having KLR registration which were parking in the locality in question could be permitted to continue to park in the same place by leaving 1.5 metres from the road margin I am of the view that till a decision is taken by the second respondent as mentioned above the said arrangement could go on. At the same time, by permitting parking of autorickshaws in terms of Ext.P4 resolution, the third respondent shall ensure that no vehicle is parked in the premises which is objected to by the petitioner in W.P.(C) No. 3535 of 2014 in terms of Ext.P3 judgment that is, in front of the shop of the petitioner.