
(2014) 03 KL CK 0019
In the High Court Of Kerala
Case No : WP (C). No. 4293 of 2014 (J)

Durga Prasad

APPELLANT

Vs

State of Keala and Others

RESPONDENT

Date of Decision : 10-03-2014

Acts Referred:

Constitution of India, 1950 — Article 226

Kerala Anti-Social Activities (Prevention) Act, 2007 — Section 15(1), 15(2)

Citation : (2014) 03 KL CK 0019

Hon'ble Judges : P. Ubaid, J;K.T. Sankaran, J

Bench : Division Bench

Advocate : Paul K. Varghese, Advocate for the Appellant; Kochumol Koduvath, Government Pleader for R1 and R3 to R6, Advocate for the Respondent

Final Decision : Allowed

Judgement

K.T. Sankaran, J.—Ext.P9 order dated 29.10.2013, issued by the Inspector General of Police, Kochi Range u/s 15(1) of the Kerala Anti-Social Activities (Prevention) Act, 2007 (hereinafter referred to as "KAAPA") is under challenge in this Writ Petition.

2. A show cause notice was issued to the petitioner before passing Ext.P9 order. Thereafter, without affording an opportunity of being heard to the petitioner, Ext.P9 order was passed on 29.10.2013.

3. We have held in Julias Nikhithas Vs. Inspector General of Police, thus:

8. It is mandatory that the authority passing an order under S. 15(1) of the KAAPA should provide an opportunity to be heard to the person concerned. We have perused the files and it is seen that no notice fixing a date of hearing was issued and no opportunity of being heard was afforded to the petitioner. The learned Government Pleader submitted that within 15 days from the date of show cause notice, at any time, the petitioner could have approached the Inspector General of Police and offered his explanation. We are not impressed

with this argument. The petitioner cannot wander in the office of the Inspector General of Police on all days and find out whether he is available and whether he is prepared to hear the petitioner. The legal requirement is that a notice should be issued to the petitioner and he should be heard if he appears....

4. In W.P.(C) No.2288 of 2013, we have also held that even if the Advisory Board decides the case against the person concerned or if the Advisory Board rejects the representation on the ground of limitation, the person concerned will be entitled to challenge the order passed by the authority u/s 15(1) of KAAPA in a Writ Petition under Article 226 of the Constitution of India.

5. In the present case, the representation submitted by the petitioner u/s 15(2) of KAAPA was rejected on the ground of limitation.

6. For the aforesaid reasons, we quash Ext.P9 order No.09 (AR)/Camp/13 K.O.R. Dated 29.10.2013 issued by the Inspector General of Police, Kochi Range. However, the Inspector General of Police would be free to issue a notice to the writ petitioner u/s 15(1) of KAAPA and, after hearing the petitioner, to pass appropriate order in accordance with law.

The Writ Petition (Civil) is allowed as above.