
(2011) 06 KL CK 0237

In the High Court Of Kerala

Case No : R.P. No. 157 of 2011 in Writ Petition (C) No. 33422 of 2010

John

APPELLANT

Vs

Changanacherry Municipality

RESPONDENT

Date of Decision : 01-06-2011

Acts Referred:

Kerala Panchayat Raj Act, 1994 — Section 271F(1), 271J

Citation : (2011) 3 KLT 5 : (2011) 8 RCR(Civil) 1392

Hon'ble Judges : P.N.Ravindran, J

Bench : Single Bench

Advocate : P. Kuruville Jacob, for the Appellant; Siby Mathew, Philip J. Vettickattu, B. Premnath (E) and E. Narayanan, for the Respondent

Final Decision : Dismissed

Judgement

1. The Petitioner in W.P.(C) No. 33422 of 2010 has filed this Review Petition seeking a review of the judgment delivered by me on 10.11.2010. By the said judgment, I dismissed the Writ Petition as withdrawn, reserving liberty with the Petitioner to institute a suit in the court of competent jurisdiction seeking the reliefs prayed for in the Writ Petition.

2. The Writ Petition was filed on 2.11.2010 seeking the following reliefs:

i. to issue a writ of mandamus or any other appropriate writ, order or direction to Respondents 1 and 2, directing them to pay the admitted balance bill amount of 2,50,512/- and 36,027/- due to Petitioner in connection with the architectural jobs executed for the fish market building and Town Hall of Changanacherry Municipality, along with reasonable interest from 10.3.09 and 18.5.02 respectively.

ii. to declare that the Petitioner is entitled to get service-tax from first Respondent at the prevailing rate for the architectural fee payable to him in connection with the two works already executed by him.

In view of the fact that the claim of the Petitioner was for payment of money for the work done by him, I was not inclined to admit the Writ Petition. The Learned Counsel then sought permission to withdraw the Writ Petition. It was in such circumstances that the judgment dismissing the Writ Petition as withdrawn was delivered on 10.11.2010 without prejudice to the right of the Petitioner to institute a suit in the court of competent jurisdiction. In the Review Petition, it is stated that after this Court expressed the view that the remedy available to the Petitioner is to approach the civil court, the Learned Counsel for the Petitioner submitted that similar matters were entertained by the Honourable Ombudsman and therefore the Petitioner may be permitted to withdraw the Writ Petition reserving liberty with him to initiate appropriate proceedings before the Ombudsman, but when the certified copy of the judgment was received, it was noted that instead of reserving liberty with the Petitioner to move the Ombudsman, the Writ petition was dismissed as withdrawn reserving liberty with the Petitioner to file a suit.

3. Relying on Section 271 J of the Kerala Panchayat Raj Act, the Learned Counsel for the review petition contended that the Ombudsman is competent to investigate any allegation contained in a complaint and pass an order directing payment of compensation and reimbursement of the loss suffered by the complainant, and therefore, the Petitioner's claim for payment for the work done is maintainable before the Ombudsman I am afraid, the said contention is without any merit. The terms "allegation" has been defined in Clause (b) of Sub-section (1) of Section 271F of the Kerala Panchayat Raj Act. The term "complaint" has been defined in Clause (c) thereof. On a reading of the said provisions, it cannot be said that claim for money made by a citizen, whatever be the ground for raising such a claim, from a local authority can be the subject matter of a complaint before the Ombudsman unless the claim for money is by way of compensation as a result of an act of mal-administration. I am therefore of the opinion that the relief sought for by the petition in this Review Petition cannot be granted. The Review Petition fails and is accordingly dismissed.