
(2016) 06 KL CK 0070

In the High Court Of Kerala

Case No : W.A. Nos. 564, 568 and 572 of 2016(WP(C).4415/2016)

Nagaroor Grama Panchayath Nagaroor P.O

APPELLANT

Vs

Vijayakumar V. Vijayavilasom

RESPONDENT

Date of Decision : 21-06-2016

Acts Referred:

Kerala Panchayat Raj Act, 1994 — Section 232, 233, 234

Citation : (2016) 3 ILRKerala 429 : (2016) 3 KHC 602 : (2016) 3 KLT 82

Hon'ble Judges : Mr. Thottathil B. Radhakrishnan, Ag.C.J. and Mrs. Anu Sivaraman, J.

Bench : Division Bench

Advocate : M. Dinesh, Advocate, for the Appellant; Bechu Kurian Thomas and Paul Jacob, Advocate, Sri. Paul Jacob, SC, University of Kerala, Sri. P.I. Davis, Government Pleader, M. Ajay, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Thottathil B. Radhakrishnan, Ag.C.J.—These appeals are by a Grama Panchayat challenging the interim orders granted during the course of three writ petitions.

2. We have heard the learned counsel for the appellant Panchayat and the learned Senior Counsel appearing for different private parties in the writ petition, who are the writ petitioners.

3. The writ petitioners were issued with D & O licences in terms of the provisions of the Kerala Panchayat Raj Act, 1994, hereinafter referred to as the "Act", and the Kerala Panchayat Raj (Issue of Licence to Dangerous and Offensive Trades and Factories) Rules, 1996, for short, the "D & O Rules". The learned single Judge directed that those licences under the D & O Rules be renewed without insisting on environmental clearance certificates being produced. This is under challenge.

4. The provisions of Sections 232, 233 and 234 of the Act as well as the contents

of the D & O Rules clearly show that the provisions of the Act and the D & O Rules stand by themselves and those provisions are not dependent on any decision to be rendered on the basis of any other statute. We are, therefore, of the view that the decision of the learned single Judge in W.P(C).No.32230 of 2014 (judgment dated 2.12.2014) to the effect that the Panchayat authorities are only bound to act with the provisions of the Kerala Panchayat Raj Act and Rules deserves to be affirmed. We do so.

5. The writ appeals filed by the Panchayat are on the premise that the D & O licences could be issued only with environmental clearance. Reliance is placed on the decision of this Court in Deepak Kumar & others v. State of Haryana & others, (2012) 4 SCC 629 and also the decision of this Court in All Kerala River Protection Council v. State of Kerala [2015 (2) KLT 78] and also the order of the Honourable Supreme Court in SLP (Civil) No.30103 of 2015, wherein it has been recorded that the existing permits would be renewed.

6. As rightly pointed out by the learned Senior Counsel appearing for the private respondents, who are the writ petitioners, the decision making process by the Panchayat authorities under the D & O Rules has to be independently made and would not be made depending upon anything which is not statutorily insisted or permitted to be relied on in such proceedings. Therefore, the applications for D & O licences will have to be processed without insisting on environmental clearance. Whether a particular entrepreneur or a person who has obtained D & O licence, will ultimately carry out the activity is his look out because, that may depend on different licences and permits to be granted by different authorities. In this view of the matter, we do not see any illegality in the impugned orders.

7. For the aforesaid reasons, these writ appeals fail. They are accordingly dismissed. The appellant will comply with the directions of the learned single Judge in the impugned interim orders within a period of three weeks from today.