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**(2012) 06 KL CK 0052**  
**In the High Court Of Kerala**  
**Case No : W.A. No. 818 of 2012**

Omana James Building No. 27/3170, Opp. Regional Passport Office Panampilly Nagar, Ernakulam APPELLANT

Vs

State of Kerala and Others RESPONDENT

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**Date of Decision :** 05-06-2012

**Acts Referred:**

**Citation :** (2012) 06 KL CK 0052

**Hon'ble Judges :** C.N. Ramachandran Nair, J;C.K. Abdul Rehim, J

**Bench :** Division Bench

**Advocate :** T. Madhu and Sri. N.M. James, for the Appellant; George Mecheril, Government Pleader, for the Respondent

**Final Decision :** Dismissed

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## Judgement

Abdul Rehim, J.—The 6th respondent in the writ petition is the appellant. The writ petition was filed by the 1st respondent herein challenging Exts. P5 to P7 orders passed by the Lok Ayukta and Ext. P10 order of the District Collector. In Ext. P5 the Lok Ayukta directed the District Collector to consider the application of the appellant for grant of stamp vendor licence, on the basis of the existing Rules and to pass final orders, within a period of one month. In Ext. P6 a further direction was issued to the District Collector to issue licence applied for by the appellant in accordance with the Rules as it stood at the time when the application was filed by the appellant and to report compliance to the Lok Ayukta. Exhibit P7 is yet another order issued by the Lok Ayukta reiterating that the Collector should pass orders within one month. Consequent to the orders passed by the Lok Ayukta, Ext. P10 order was issued by the District Collector directing the District Treasury officer to provide licence to the appellant. The writ petitioner, being the President of an Association representing stamp vendors had challenged Exts. P5 to P10. After analysing various provisions contained in the relevant statute, learned single Judge observed that the Lok Ayukta has no jurisdiction to interfere in the matter, especially on the basis of settled legal

precedents, decisions of this court reported in *State of Kerala V. Sheela* (ILR 2009 (Ker.) 660) and *Ramachandran Master Vs. Kerala Lok Ayukta*, . It was found that the Lok Ayukta has no jurisdiction in the matter and even assuming that it has got jurisdiction, the mandatory direction issued is clearly exceeding the powers vested.

2. On merits of the issue, it is evident that the application for stamp vendor licence submitted by the appellant was not considered for the reasons specifically assigned in Ext. R6 (b) letter. The District Collector observed that the Government have issued an order prohibiting issuance of fresh licences, contemplating amendment of the relevant Rules. It is evident that the Rules have been amended subsequently. The direction issued by the Lok Ayukta is to consider the application of the appellant on the basis of the Rules which existed as on the date of the application. It is settled law that mere submission of application or even any delay caused in disposal of application will not confer any right on the appellant to get his application considered on the basis of the Rule existing as on the date of submission of the application. Licence can be issued by any competent authority only with reference to the position of law as existing as on the date considering the application. The law prevailing as on the date of consideration is the application in this case is Ext. P1, the amendment brought to the Rules in the year 2007. The hon"ble Supreme Court in its decision in *Howrah Municipal Corpn. and Others Vs. Ganges Rope Co. Ltd. and Others*, and in *State of Kerala and Another Vs. B. Six Holiday Resorts (P) Ltd. and etc.*, had reiterated the above position. This court had occasion to consider the above question in a recent decision in *Asset Homes (P) Ltd. Vs. State of Kerala*, .

3. In view of the legal position remaining settled we are of the considered opinion that the direction issued by the Lok Ayukta to consider the application of the appellant on the basis of the Rule existing as on the date of submission of the application, cannot be sustained.

4. Appellant had raised a further contention regarding "locus standi" of the 1st respondent in challenging the orders issued by the Lok Ayukta and the direction issued by the District Collector to grant licence, since he is not a person aggrieved. Counsel for 1st respondent had resisted such contention on the basis that he is the President of the Association and the members of the Association are the affected parties. We take note of the fact that the Lok Ayukta had clearly exceeded in its powers in issuing such positive directions. Further we find that the appellant was not entitled for consideration of her application under the Rules which was existing as on the date of submission of the application. Therefore we are of the opinion that an illegality occurred in the orders of the Lok Ayukta and consequential relief granted by the District Collector cannot be allowed to sustain. More over such a contention was not seen raised before the single Judge. Therefore we are not considering the merits of the question of locus standi.

5. In view of the discussions contained in the foregoing paragraphs we find no

reasons to interfere with the impugned judgment. Accordingly the writ appeal is dismissed. However, we make it clear that the appellant will be entitled to apply under the existing Rules for licence of stamp vendor, as and when the District Collector issue notification calling for applications.