

(2010) 09 KL CK 0093
In the High Court Of Kerala
Case No : W.A. No. 1513 of 2010

P. Mujeeb Rahman

APPELLANT

Vs

The Tribunal for Local Self Governemnt, M. Abdul Nadeer, The
Ramanattukara Grama Panchayath and The Secretary

RESPONDENT

Date of Decision : 22-09-2010

Acts Referred:

Kerala Panchayat Raj Act, 1994 — Section 271S

Citation : (2010) 09 KL CK 0093

Hon'ble Judges : Jasti Chelameswar, C.J;P.R. Ramachandra Menon, J

Bench : Division Bench

Advocate : R. Ramadas, for the Appellant; No Appearance, for the Respondent

Final Decision : Dismissed

Judgement

J. Chelameswar, C.J.—This appeal is filed by the unsuccessful petitioner in W.P. (C) No. 14007 of 2009, which was dismissed by the order dated 02.03.2010.

2. The facts leading to the case are as follows: The second respondent's application for a licence to conduct a chicken stall within the jurisdiction of the third respondent Panchayat was rejected by the proceedings dated 09.04.2007 of the 4th respondent. Aggrieved of the same, the second respondent carried the matter in a Revision before the Tribunal constituted u/s 271S of the Kerala Panchayat Raj Act. By Ext.P7 order in the Writ Petition, the said Revision was allowed by the Tribunal. Complaining that the said order is illegal, the above mentioned Writ Petition came to be filed by the appellant praying that the above mentioned order be quashed. By the judgment under appeal, the learned single Judge of this Court declined to interfere with the decision of the Tribunal. It may be noticed that by Ext.P5 order, which was challenged before the Tribunal, the application preferred by the second respondent herein was rejected without assigning any reason. It appears from the said order that five persons including the present appellant filed objections before the Panchayat objecting to the licence sought for by the second respondent herein on various grounds. Except

narrating the various objections raised by the appellant and others, no reason whatsoever is assigned for rejecting the application in Ext. P5 order. The order does not disclose any discussion whether the objections raised by the appellant and others are legally germane and tenable in the context of the licence sought for. In the circumstances, apart from the reasons assigned by the learned single Judge in the judgment under appeal and also the reasons assigned for allowing the Revision, we are of the opinion that Ext. P5 order cannot be sustained. Therefore, in our opinion, the judgment under appeal does not call for any interference.

The learned Counsel for the appellant however submitted that the business sought to be conducted is at a place very close to his residence and is likely to have adverse effects on his living conditions. In our view, the remedy of the appellant for redressal of his grievance, if any, is in the realm of private law which is still open to the appellant. The appeal is dismissed at the admission stage itself.